SENATE—*Thursday, November 5, 1987*

The Senate met at 9 a.m., and was called to order by the Honorable TERRY SANFORD, a Senator from the State of North Carolina.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

"Lord, who shall abide in Thy tabernacle? Who shall dwell in Thy holy hill? He that walketh uprightly, and worketh righteousness, and speaketh the truth in his heart," for the righteous Lord loveth righteousness.

"The Lord is my shepherd, I shall not want. He leadeth me in the path of righteousness for His namesake."

Righteous Father perfect in holiness, how easily and how far we stray to our own peril. History makes it clear that no great empire has been destroyed from without before it had decayed morally from within. With all our military might and all our political power we grow weaker ethically and morally, and strangely, Father, somehow the people expect Congress to legislate righteousness. Even the churches demand that Congress legislate a lifestyle which they themselves fail to sustain.

How desperately we need a spiritual awakening which will bring moral and ethical renewal.

Grant to each Senator the grace to take righteousness seriously and to live well pleasing under his Lord. Lead us in the path of righteousness for Your own glory, and for our salvation as a people. Hear us as we pray in the name that is above every name, Jesus. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. STENNIS].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, November 5, 1987.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable TERRY SANFORD, a Senator from the State of North Carolina, to perform the duties of the Chair.

JOHN C. STENNIS,
President pro tempore.

Mr. SANFORD thereupon assumed the chair as Acting President pro tempore.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business for not to exceed 2 minutes.

THE JOURNAL

Mr. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EXTENSION OF MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that morning business be extended for 5 minutes, and that Senators may speak therein for 5 minutes each.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Wisconsin is recognized.

Mr. PROXMIRE. Mr. President, I thank my good friend, the majority leader.

THE LONG-TERM THREAT OF SDI TECHNOLOGY

Mr. PROXMIRE. Mr. President, at President Reagan's most recent press conference on the night of October 22, he once again asserted that the strategic defense initiative [SDI] would make nuclear weapons obsolete. It is this wholly unrealistic goal of the President of the United States that represents the basis for continuing SDI. Now, think of the price we pay for pursuing this wild phantom. First, and most obviously the cost of completing research on SDI, then developing it, then testing it, then building the immense amount and tonnage of hardware that it would require and then deploying this hardware in orbit—all of this would certainly approach $1 trillion. Would that be the total cost? No way. That trillion dollars would only be the beginning. The cost of maintaining, operating and especially continually modernizing this maginot-line-in-the-sky would, according to former Defense Secretary Harold Brown, be something like $150 billion in 1986 dollars each and every year, forever. This is a colossally heavy cost. But that's the least of the SDI problem.

The second enormous cost of rushing ahead with SDI is that it prevents an arms control agreement with the Soviet Union that would permit both superpowers to save billions in military expenditures without sacrificing the credibility of the deterrent of either country. This is because a mutual, carefully verified reduction of their offensive arsenals by both superpowers would save billions for both countries without diminishing the relative military strength of either. And such an agreement would actually strengthen national security by diminishing both the mutual fear and hostility on the one hand and the hair trigger instruments of nuclear destruction on the other. But United States plans to proceed with SDI kills any realistic prospect of agreement with the Soviet Union to limit or reduce offensive nuclear arms.

The third cost of pushing ahead with SDI represents the greatest danger of all. Consider that this technology embraces free electron lasers, and nuclear directed energy weapons. These are, of course, conceived by the President as strictly defensive weapons, capable when fully developed and deployed of destroying the credibility of the Soviet's mighty nuclear deterrent.

Mr. President, the Reagan administration appears to be unaware that they are building a monster that will certainly come back to haunt and very possibly destroy us. It is, of course, conceivable that these speed-of-light, nuclear driven, immensely powerful weapons could, indeed, destroy the present Soviet deterrent. But it is absolutely certain that the Soviets would pour all of their resources into saving that deterrent. For starters they would use precisely the same particle beams and lasers that we would use for smashing their ICBM's. They would use this SDI technology to destroy our orbiting kinetic kill vehicles which we design to strike Soviet ICBM's. The Soviets would be likely to use the SDI technology to destroy our trillion dollar SDI hardware. But they, like us, could hardly overlook the immense potential for offensive warfare embodied in weapons that could strike across continents not in the relatively slow half hour that it would now take a Soviet ICBM to reach American targets following the over-the-pole route, but literally in a fraction of a second.

Mr. President, all of us in the Congress should think long and hard before we rush into the arms race to vie with the Soviet Union in developing weapons that move with the speed

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

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of light and strike with devastating power. These weapons are a long, long way from perfection. It will take many years and enormous funding of dollars and huge diversion of our scientific genius to bring them from birth to their king size combination of lightning speed and massive power. The expert panel of the American Physical Society that recently studied the potential of these weapons reported that it would require an improvement ranging from a factor of 100—that is a hundredfold, to a factor of a million to make them effective. What does that mean? It means the cost will be vast. It means the weapons may never achieve effectiveness. It means the time before we can use them even under the best of circumstances will be decades.

But, Mr. President, the development of these SDI weapons means something else. It means that both superpowers will be racing ahead to construct the most swift, sudden and devastating weapons ever. And, irony of ironies, we will be building these immensely destructive weapons in the name of peace. Would these lightning fast weapons be used offensively? What do you think? This is not the way to build peace. The way to build peace is to learn from the lesson of the past 42 years of superpower and European peace. Why did we have that peace? Because we have had and still have a terrible, fear inspiring military deterrent. We had begun to build on that peace with the limited Test Ban Treaty, with the Anti-Ballistic Missile Treaty [ABM] that prevented a defensive arms race and Strategic Arms Limitation Treaty [SALT II] that aimed to prevent an offensive arms race. Now SALT II has expired. The ABM Treaty is in dire jeopardy because of SDI. And the administration has refused to pursue the unlimited, comprehensive test ban we and the Soviet Union promised to negotiate when we signed and ratified the 1963 Test Ban Treaty.

Arms control is in serious trouble. The headlong rush to move ahead with SDI is the reason.

Mr. President, once again I thank the distinguished majority leader, and I yield the floor.

ECONOMIC SUMMIT

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

Mr. BYRD. Mr. President, are there any measures under rule XIV that should be read the second time?

The ACTING PRESIDENT pro tempore. The clerk will now read Senate Joint Resolution 204 for the second time.

The legislative clerk read as follows:

A joint resolution (S.J. Res. 204) calling for an economic summit to deal with the financial crisis.

Mr. BYRD. Mr. President, I ask that there be no further action on this measure at this point.

The ACTING PRESIDENT pro tempore. Objection having been heard to further proceedings on the measure, the joint resolution will be placed on the calendar.

RECONCILIATION ON THE BUDGET FOR THE FISCAL YEAR 1988

The ACTING PRESIDENT pro tempore. The clerk will now read H.R. 3545 for the second time.

The legislative clerk read as follows:

A bill (H.R. 3545) to provide for the reconciliation pursuant to section 4 of the concurrent resolution on the budget for the fiscal year 1988.

Mr. BYRD. Mr. President, I ask that there be no further proceedings on the bill at this point.

The ACTING PRESIDENT pro tempore. Objection having been heard to further proceedings on the measure, the bill will be placed on the calendar.

HENRY BASCOM COLLINS, 1899–1987

Mr. STEVENS. Mr. President, at this very time at the Smithsonian they are now having a service to honor the life of Dr. Henry Bascom Collins. This is a memorial service held in the Baird Auditorium of the Museum of Natural History.

Collins, the world-acknowledged dean of Arctic archeology, died on October 21 of this year in Campbelltown, PA. Collins came to work at the Smithsonian in 1924, working in the National Museum's Division of Ethnology and Bureau of American Ethnology until his retirement in 1967. Like most Smithsonian curators, he remained active after retirement, continuing his research into the mid-1980's. During his 50 years of service to science he made immense contributions to the study of Alaska's Native peoples, to the prehistory of Arctic Canada, and to the archeology of the Southeastern United States. Henry Collins was a dedicated scientist whose science prowess and humanity helped give voice to the generations—really millenia—of Native peoples of the North whose written history began only a few hundred years ago.

Collins went north to Alaska in 1927 searching for clues about the movement of man into the New World. He worked along the Bering Sea coast, surveying and collecting. Collins became convinced that the Bering Strait region held important evidence of undiscovered early Eskimo cultures, and in 1928 he traveled to St. Lawrence Island to explore for them. This led to Collins' major work, "Archeology of St. Lawrence Island, Alaska," published in 1937.

For nearly 100 years, scholars and explorers had debated the question of Eskimo origins. Many believed that Eskimo culture developed in northern Canada from northward-drifting Indian groups who became accustomed to Arctic life. Collins' excavations of the remains of villages frozen in time by permafrost provided evidence conclusively refuting the Canadian origin theory. He found that the earliest Eskimo remains on St. Lawrence Island were twice as old as the oldest Canadian Thule Eskimo culture. Gradual changes in artifacts and art styles could be traced through an unbroken 2,000-year sequence. I find it fascinating that the earliest cultures were the most elaborate, having a highly developed artistic style unknown outside of western Alaska, with ties to early Asian cultures. Henry Collins' work established the antiquity of Eskimo culture in Alaska and linked its origins to Asian roots.

Dr. Collins' primary focus was archeology. Yet he maintained a strong interest in ethnology, physical anthropology, and prehistoric art and published influential papers in these areas. Collins was particularly stimulated by the work of Edward W. Nelson. Nelson had collected extensively for the Smithsonian in western Alaska in 1877–81. You may recall that the Nelson collection on Eskimo culture was on display at the Smithsonian in 1982. The exhibit, entitled "Inua: Spirit World of the Bering Sea Eskimo," projected an insightful picture into the lifestyle, philosophy and spirit of the 19th century Bering Sea Eskimo peoples. Nelson's collections and observations were much admired by Collins for their accuracy and clarity of expression.

Henry Collins retired from the Smithsonian in 1967 but remained active in research until his death. During his long career he published more than 125 scholarly monographs, articles, and reviews covering the entire field of North American Arctic archeology—a field that Collins, more than any other researcher, helped create.

Collins' many contributions to Alaska, the Smithsonian, to the Nation, to northern peoples everywhere, and to science, are widely appreciated. He will long be remembered as the man who settled the basic questions of Eskimo origins and who contributed most to the study of prehistoric Eskimo art. It was Henry Collins who established the field of Eskimo archeology as a modern science, and ideptified and resolved its major issues in the 20th century. Alaskans in particular owe him a debt of gratitude.

In recognition of his many contributions, the Smithsonian is establishing a national center for arctic studies to further the work begun so well by Henry Bascom Collins.

My good friend William W. Fitzhugh, Curator of Arctic Studies, Department of Anthropology at the Smithsonian Institution, sent me an article that highlights the many accomplishments of this "Renaissance Man." I ask that this article be printed in the RECORD, and urge my colleagues to take a few minutes to read it.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

DR. HENRY BASCOM COLLINS, SMITHSONIAN "DEAN" OF ARCTIC ARCHEOLOGY, DIES AT 88

Dr. Henry Bascom Collins, the Smithsonian Institution's internationally honored arctic anthropologist, died in Campbelltown, Pa., Oct. 21, of injuries following a fall. He was 88. Collins' pioneering studies on Eskimo prehistory and art influenced two generations of scholars who considered him the pre-eminent "Eskimologist" in the world.

Collins was best known for discoveries at St. Lawrence Island, Alaska, in the decade from 1927-1937, proving for the first time that Eskimo cultures had ancient roots in the Bering Strait and were not recent arrivals from Canada as had been previously thought.

On St. Lawrence Island, Collins excavated a series of sites where he found evidence of an unbroken sequence of changes in Eskimo art styles going back 2,000 years. This research resolved nearly a century of scholarly squabbles and the concerns of arctic peoples about their history, earning Collins the Gold Medal of the Royal Danish Academy of Sciences and an Honorary Doctor of Sciences degree from his alma mater, Millsaps College.

In 1948, Collins began research on Canadian prehistory at the invitation of his friend and colleague Diamond Jenness of the Canadian National Museum. Through excavations at Frobisher Bay, Resolute, Southampton Island, and other Canadian arctic locations between 1948-1955, Collins provided important new data and interpretations on Dorset and Thule Eskimo cultures, and trained the first generation of Canadian nationals who specialized in arctic prehistory. The Canadian work led Collins to a new synthesis of Alaskan, Canadian and Greenlandic prehistory.

Collins was born on April 9, 1899, in Geneva, Ala., and received his bachelors' degree from Millsaps College in Jackson, Miss., in 1922. After working for three summers for the Smithsonian at Pueblo Bonito, a New Mexico archaeological site, and receiving a masters' degree from George Washington University, Collins was hired as an assistant curator in the division of ethnology of the Smithsonian's U.S. National Museum.

At the onset of his Smithsonian career, from 1925 to 1929, Collins was mainly interested in the archaeology of the Southeastern United States, and he made major contributions to the study of the prehistory of the region that earned him a citation from colleagues at Harvard University in 1980.

Collins officially retired from the Smithsonian's National Museum of Natural History in 1967 but continued to maintain an office there and publish research until 1986.

Collins contributed leadership, scholarly acuity and gentlemanly ways to many organizations and activities, according to his colleagues in the Anthropology Department. He was a member of many academic societies and social clubs, including the Cosmos and the Explorers clubs. He served several times as an officer of the Congress of Anthropological and Ethnological Sciences and the Congress of the Americanists. He was president of the Washington Anthropological Society (1938-1939) and was twice vice president of the Society of American Archeology (1942-1952).

During World War II, he directed the Ethnogeographic Board, and in 1945 helped found the Arctic Institute of North America, serving as director of its Board of Governors in 1948, as chairman of its Arctic Bibliography Committee from 1947-1967, and several times as a member of its Board of Governors. Preferring research activity, Collins avoided administrative duties at the Smithsonian until 1963-65 when he was Acting Director of Smithsonian's Bureau of American Ethnology during the last two years of its existence.

Dr. Collins is survived by his wife Carolyn Walker Collins of Campbelltown; by his sister, Ione Givens of Jackson, Miss.; by his daughter Judith Rafferty of Bethesda, Md., and by his granddaughter, Penelope Pagani. A memorial service will be held in Baird Auditorium in the Museum of Natural History, Smithsonian Institution, at 2 p.m. on Nov. 5. Interested individuals may make donations to the Collins Center for Arctic Studies, c/o William Fitzhugh, National Museum of Natural History, Smithsonian Institution, Washington, D.C. 20560.

Mr. STEVENS. Again, I thank my good friend. It is not possible to be at this memorial service to honor Dr. Collins, and I am pleased to have the opportunity to do so here.

The PRESIDING OFFICER. The Senator from Alaska yielded the floor.

CONCLUSION OF MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that morning business be closed.

The ACTING PRESIDENT pro tempore. Morning business is closed.

EXECUTIVE SESSION

REGULATIONS FOR THE PREVENTION OF POLLUTION BY GARBAGE FROM SHIPS (ANNEX V OF MARPOL 73/78)

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now go into executive session to consider a treaty, Calendar No. 3, Treaty Document No. 100-3, which the clerk will state.

The legislative clerk read as follows:

A treaty, Calendar No. 3, Treaty Document No. 100-3, Regulations for the Prevention of Pollution by Garbage from Ships (Annex V of MARPOL 73/78).

The ACTING PRESIDENT pro tempore. The treaty will be considered as having passed through its various parliamentary stages up to and including the presentation of the resolution of ratification, which the clerk will report.

The legislative clerk read as follows:

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of Annex V, Regulations for the Prevention of Pollution by Garbage from Ships, an Optional Annex to the 1978 Protocol Relating to the International Convention for the Prevention of Pollution from Ships, 1973 (MARPOL 73/78).

Mr. BYRD. Mr. President, who controls time on the treaty itself?

The ACTING PRESIDENT pro tempore. The managers of the treaty will control the time.

Mr. BYRD. I thank the Chair.

Mr. PELL addressed the Chair.

The ACTING PRESIDENT pro tempore. On this resolution there will be 20 minutes of debate to be equally divided and controlled in the usual form.

The Senator from Rhode Island is recognized.

Mr. PELL. Mr. President, for decades, man has been discarding debris as part of the normal operations of merchant, passenger, fishing and recreational vessels. In recent years, the refuse disposed overboard has changed from degradable materials to waste containing many nondegradable plastic products.

Plastics are now used for fishing nets, garbage bags, packing bands and a myriad of other objects. Advances in plastic technology indicate that the production of plastic objects will continue to grow dramatically. Unfortunately, laws controlling the disposal of plastics products have not kept pace with the proliferation of these objects in the marketplace. According to testimony received by the Foreign Relations Committee, the world's shipping fleet reportedly discards each day more than 450,000 plastic containers into the world's oceans. Each year the fishing vessels dump an estimated 52 million pounds of plastic packaging material and over 298 million pounds of plastic fishing gear.

These products pose a serious threat to the marine environment and wildlife. Careful control of garbage disposal is necessary to ensure that the harm to the marine environment is minimized. The adoption of annex V of the MARPOL Convention by the United States and other countries will go a long way toward ameliorating this problem.

Therefore, I urge my colleagues to vote in favor of granting advice and consent to the ratification of this agreement.

Mr. CHAFEE. Mr. President, will the distinguished manager yield me 3 minutes?

Mr. PELL. I yield 3 minutes to the Senator.

Mr. CHAFEE. Mr. President, I want to say how happy I am that we are now ratifying annex V of the MARPOL Treaty. This is a great step forward in diminishing the amount of

plastics and other types of garbage that are discharged from vessels into the seas of the world.

Because of the development of plastics and the increasing greater use of the same in water bottles and every form of food packaging and water containerization, the proliferation of plastics has increased to a far greater degree than any of us ever anticipated.

Last summer, I had the pleasure of meeting a group of sailors who had single-handedly raced around the world, with only three stops. They raced from Newport, RI, to Capetown; from Capetown to Sydney, Australia, which was the second stop; and from Sydney, Australia, to Rio de Janeiro, and then on back to Newport.

Each of these sailors, on the leg from Sydney, Australia, to Rio, and from Rio to Newport, made the commitment that they would not discharge any of their plastic waste but would save it until they had reached the next port of call. I saw the amount of plastics they had when they arrived on the leg from Rio to Newport.

It was remarkable that these singlehanded sailors, with all they had to attend to, made this effort to save their plastics from being discharged, to set a model, an example, for all sailors around the world, sailors who had much more time, who did not have the burdens placed upon them that a singlehanded sailor had.

There were two extraordinary things. One was the amount that a single person could generate in plastic waste. They had saved it in great bags and brought it into the hall for a demonstration. Each sailor had approximately three mammoth garbage bags full of plastic waste that that single sailor had generated on one of the legs of the trip.

The other point they made which was interesting was that despite the lonely courses they had to choose—there is not much traffic going in the southern latitudes from Sydney, Australia, to Rio de Janeiro, around Cape Horn; very little traffic makes that journey—they all stated that they encountered in those lonely waters plastic bags floating on the surface.

We have now created an international garbage pit of the oceans of the world. Floating on the seas is all kinds of disposed plastic waste and other waste discharged from vessels.

So this MARPOL treaty, annex V, will go a long way toward reducing that. It will not totally do it, but it is a great step in the right direction. Already the U.S. Navy has taken major steps to reduce the plastic waste it discharges overboard.

So I commend the distinguished chairman of the committee for the action of his committee, and the others who partook in it, and I look forward to this annex of the treaty to vastly reduce the disposal that unfortunately is taking place to such a degree in the waters of the world.

Mr. GRAMM. Mr. President, in the absence of the distinguished Senator from North Carolina, I ask unanimous consent that I control the time on the Republican side.

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered.

Mr. GRAMM. I yield myself 3 minutes.

Mr. President, I commend those who have worked on annex V.

With our ratification here today, 29 nations will have ratified the treaty. In terms of total tonnage of merchant shipping on the seas, preliminary estimates indicate that will take us over 50 percent, and that is the trigger point that will begin the 1-year period that must elapse before the treaty actually goes into effect.

This treaty is vitally important. We have always had a problem, since the first mariner went to sea, with seamen throwing garbage overboard, but plastics add a new dimension that we have never faced before.

Had George Washington, for example, thrown one of those plastic yokes from a six-pack of beer into the Delaware as he crossed, that plastic yoke would just be reaching its half-life today.

These plastic bottles, these plastic containers, have full lives of 400 or 500 years. That represents a very real peril, not just to wildlife but also to the lives of men and women on the planet who want to see our beaches beautiful, who want to see the quality of our oceans restored to the way the Lord made them.

This a vitally important treaty. I am proud to be one who will cast a vote for it.

My colleague from Texas, Senator BENTSEN, will be offering an amendment later that is aimed at trying to obtain for the Gulf of Mexico a special area designation. I will join him in cosponsoring that.

It is critical that we move ahead to protect our environment. I, for one, do not see any ultimate conflict between protecting our environment and having an environment in which we can create jobs, growth, and opportunity. I think the two go together. By working together on a private and public partnership, we can make that happen.

This is a historic treaty we are ratifying today in annex V, and I hope we will have an overwhelming vote for it.

AMENDMENT NO. 1127

(Purpose: To add to the Resolution of Ratification an understanding that the U.S. Government shall make every reasonable effort to have the Gulf of Mexico designated a "special area")

Mr. BENTSEN. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Texas [Mr. BENTSEN], for himself, Mr. CHILES, Mr. GRAHAM, Mr. GRAMM, Mr. HEFLIN, Mr. SHELBY, and Mr. JOHNSTON, proposes an amendment numbered 1127.

Mr. BENTSEN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the Resolving clause, and add in lieu thereof the following:

"That the Senate advise and consent to the ratification of Annex V, Regulations for the Prevention of Pollution by Garbage from Ships, an Optional Annex to the 1978 Protocol Relating to the International Convention for the Prevention of Pollution from Ships, 1973 (MARPOL 73/78), subject to the following:

"(a) *Understanding.*—

(1) The United States Government shall make every reasonable effort to have the Gulf of Mexico designated a 'special area' governed by the terms of Regulation 5 of Annex V to the 1978 Protocol Relating To The International Convention For The Prevention Of Pollution From Ships, 1973 (MARPOL 73/78).

(2) The President shall include this understanding incorporated by the Senate in the Resolution of Ratification in the Instrument of Ratification to be deposited with the Secretary-General of the International Maritime Organization.

Mr. BENTSEN. Mr. President, I have as cosponsors my distinguished colleague, Senator GRAMM of Texas, and also Senator GRAHAM of Florida, Senator CHILES of Florida, Senator SHELBY and Senator HEFLIN of Alabama, and Senator JOHNSTON of Louisiana.

Mr. President, I strongly support the ratification of annex V. Favorable action by the United States will bring this agreement into force because nations with more than 50 percent of the gross tonnage of the world's merchant shipping will have ratified it.

This is thus an historic occasion, a chance for us by a single vote to help improve the quality of life throughout the globe.

Annex V will help to rid the seas of plastic articles which now are killing millions of birds, fish, whales, seals, and sea turtles each year. It will set tougher rules against the dumping of garbage which now floats ashore and spoils our beaches.

In voicing our approval for this international agreement, I believe we can and should take an additional step to bring the extra protections of annex V to the Gulf of Mexico.

The gulf is a semienclosed basin with currents and circulation that take as long as 90 years to flush it. It is economically important and ecologically vulnerable. It has the same characteristics as other bodies of water al-

ready designated "special areas" under the terms of this annex.

In such zones, no garbage or nonfood wastes can be dumped into the sea. In other ocean areas, all kinds of floating wastes—except plastics—can be tossed overboard so long as the boat is at least 12 nautical miles from shore. Unless the Gulf of Mexico is made a special area, with the extra protection that status gives, coastal beaches from Florida to Texas will continue to be littered with tons of garbage from far off shore.

The widespread support for annex V is strong evidence of the determination of the American people to clean up our oceans and beaches. Last spring, over 23,000 Americans volunteered for beach cleanup activities. They covered over 1,800 miles of coastline and collected over 670 tons of debris. Texans were particularly active in this effort, fielding over 7,000 people who gathered over 306 tons of debris.

But volunteer efforts alone can't turn back the tide of garbage.

Cleaner beaches require cleaner oceans. For example, over three-fourths of the trash on Texas beaches comes from offshore.

Unlike so many problems that we face, this is one where there is widespread recognition that something must be done, broad consensus on what should be done, and an opportunity right at hand to do it.

Ratification, of annex V would set tough international standards against the dumping of plastics, garbage, and solid wastes. Then we can enact tough but fair implementing legislation.

Today, as we approve annex V, I believe the Senate should go on record expressing its support for the designation of the Gulf of Mexico as a special area where no solid waste dumping would be allowed.

The U.S. Government has already recognized the desirability of making such a designation. The U.S. delegation to the International Maritime Organization has announced our intention to seek approval of the designation at the IMO's meeting in November.

We now have a report by the Center for Environmental Education which assembles the proof that the Gulf of Mexico has the same characteristics of those bodies of water already named special areas. This report will be used to persuade the IMO members of the need to make the gulf a special area.

I believe that the Senate should support the policy. Accordingly I am offering an amendment to the resolution of ratification which will put the Senate firmly on record in favor of seeking to have the Gulf of Mexico designated as a special area.

This is not a condition or reservation on our approval of annex V. It is simply an understanding, an expressed hope that the U.S. Government will make very reasonable effort to achieve this goal.

By this action we can support those people who have already volunteered their time and energy for our common goal of cleaner oceans and cleaner beaches for all to enjoy.

Mr. BREAUX. Mr. President, I would like to take this opportunity to address the amendment offered by the distinguished senior Senator from Texas and ask for his clarification thereof.

First, I want to express my strong interest and support for ratification and implementation of annex V of the 1978 protocol relating to the International Convention for the Prevention of Pollution from Ships, otherwise referred to as MARPOL.

The current ocean dumping of garbage, specifically nonbiodegradable plastic materials, is simply an unacceptable practice in light of the extreme value of our delicate coastal and marine resources. The impacts of such persistent materials on marine life, recreation and tourism are well documented and certainly warrant our rapid attention. I appreciate the efforts of the distinguished chairman of the Foreign Relations Committee and others in this regard.

Because of the special hydrological characteristics of the Gulf of Mexico, and because this area is a focus of intense global shipping, oil and gas development, commercial fishing, and recreational fishing and boating, I believe it would be appropriate to further consider the designation of the Gulf of Mexico as a "special area" under the terms of regulation 5 of annex V of MARPOL. Under paragraph 2(a) of regulation 5, such designation would prohibit the disposal into the Gulf of Mexico of all plastics as well as all other garbage, including paper products, rags, glass, metal, bottles, crockery, dunnage, lining, and packing materials.

However, I am very concerned over subsequent provisions of annex V prohibiting the disposal of highly biodegradable food wastes within 12 miles of land in special areas. I recognize that outside of special areas annex V prohibits the disposal of food wastes within 3 miles of land, requires food wastes to be reduced to a maximum size of 25 millimeters for disposal from 3 to 12 miles offshore, and permits any food waste disposal beyond 12 miles. These requirements alone present a rather aggressive approach. However, paragraph 2(b) of regulation 5 regarding special areas eliminates even the option of passing food waste through a grinder—in order to achieve the 25 millimeter size—for disposal within the 3- to 12-mile zone.

My concern is that this requirement places an undue burden on small boat and vessel operators operating in the Gulf of Mexico. In particular, my concern is for the thousands of shrimp fishing vessels that typically operate for 2 to 4 weeks at a time in the 3- to 12-mile zone. Requiring these relatively small vessels to retain on board all of their food wastes for several weeks at a time poses a serious health problem not justified by the environmental threat of otherwise disposing of these wastes.

Therefore, while I certainly advocate that special attention be given to the garbage disposal problems in the Gulf of Mexico, I strongly recommend that any such proposal contain at a minimum a provision that would permit the disposal of small-particle food wastes within the 3- to 12-mile zone. I would suggest that the 25-millimeter requirement applicable to the disposal of food wastes outside special areas would be appropriate.

I have discussed this approach with those at the U.S. Coast Guard who are responsible for pursuing the special area designation for the Gulf of Mexico on behalf of the U.S. Government at future meetings of the International Maritime Organization [IMO] and I have been given every indication that the Coast Guard has no objection to including such a provision in the U.S. proposal.

Therefore, I ask the distinguished senior Senator from Texas if it is his understanding and intent that his amendment in no way precludes the efforts of the U.S. Government from pursuing and securing such a provision regarding the disposal of food wastes in the proposal to establish the Gulf of Mexico as a special area?

Mr. BENTSEN. Yes, that is my understanding and intent.

Mr. PELL. Mr. President, what is the time situation both on the treaty and on the amendment?

The ACTING PRESIDENT pro tempore. On the resolution Senator GRAMM has 7 minutes and Senator PELL has 5 minutes. On the amendment Senator BENTSEN has 6 minutes remaining and Senator PELL has 10 minutes.

Mr. PELL. I thank the Chair very much.

I would add that I think that the amendment is an excellent amendment. The Gulf of Mexico has very unique circumstances which warrant the special protections afforded by regulation 5 of this annex.

In order to preserve our time, I will at this point suggest the absence of a quorum, the time to be equally divided between both sides.

Mr. GRAMM. Excuse me.

If the Senator will withhold, Mr. President, I am happy to join my colleague, Senator BENTSEN, in offering this amendment. I do not think any of us suffer any delusion about it being easy to designate the Gulf of Mexico a

special area under this treaty because this process is lengthy and cannot be done unilaterally.

Critical to that agreement will be decisions by Mexico, Cuba and other Caribbean nations to support this decision and to actively seek the support of others in trying to designate the gulf as a special area.

I think there are many things we are going to have to do. One of those things is to devise an efficient and economical way of disposing trash generated on ship, and bring together the resources of the Federal Government, the State governments, and our ports, so that we can dispose of this garbage in an efficient manner.

We are going to have to build the economic infrastructure to make all that happen.

We are going to have to prove that it can be done efficiently because when we go to nations like Mexico, far poorer than ourselves, we are going to have to be able to demonstrate conclusively, based on hard fact and proven result, that you can deal with this garbage problem, that you can impose these restrictions to improve the quality of the gulf, and you can do it at a price that does not disadvantage you in the world marketplace in terms of trade and shipping.

I think it is going to be a long and difficult task. But it is important that we begin.

I guess the turning point for me on this whole issue was when I was in Turkey as part of my work on the Armed Services Committee looking at a new facility being built by General Dynamics to build the F-16 there and I decided to go out and visit our service men and women in the Mediterranean. In flying out on a helicopter I kept seeing many black splotches on the bottom of the sea. I asked the admiral what they were. As it turns out, it was plastic, plastic bags, garbage, literally covering the bottom of the Mediterranean Sea. And that is garbage that I guess is going to be there for hundreds of years.

We have an opportunity in the Gulf of Mexico, a very fragile area, a very important area, to begin today with this amendment to annex V to begin to develop the economic infrastructure to deal with this garbage, to prove that we can dispose of it efficiently, that there is a better way than throwing it overboard.

If we can do that in the United States, if we go out and effectively convince Mexico and the other nations that have ratified this treaty, I think we have a real opportunity to see this special area designation become a reality. I think it is vitally important.

I have been very impressed by the number of people in my State and other States who have taken a personal concern for the beauty of our beaches, for wildlife and have helped clean our beaches, but there is no substitute for preventing the garbage from being dumped in the first place because the unseen garbage does as much damage to the wildlife and the environment as the garbage which we see.

I personally am committed to see this effort through to a successful conclusion. To those ports that are concerned about the economics of it, I certainly am willing to work with them to find ways to deal with the economic problem, to develop whatever public-private relationship is necesary to build the infrastructure to deal with the flow of garbage to assure that it is brought into port, that it is disposed of properly so that we do not throw it into our oceans and seas and especially into the Gulf of Mexico.

So I congratulate my colleague. I am happy to join him and I commit not only to the support of this amendment which states the goal, but I also commit to the work that is going to have to be done to make this a reality.

I yield back the remainder of my time.

Mr. BENTSEN. Mr. President, I thank my distinguished colleague for his generous remarks, and I very much appreciate his valiant support.

I yield the remainder of my time to the manager for the majority of the resolution.

The ACTING PRESIDENT pro tempore. The Senator from Rhode Island.

Mr. PELL. Mr. President, I thank my colleague from Texas.

I would just add again how important this treaty is and I urge all my colleagues to support it.

I think all of us who live near the sea or travel on the sea are more vividly aware of this serious problem than others. To be sailing along out of sight of land only to encounter large amounts of floating garbage makes you realize that this is a treaty long overdue.

It should be noted that the enforcement provisions of this agreement will be left in great part to the Coast Guard. I think we should bear in mind that recently the Coast Guard has been given the additional responsibilities of drug interdiction and fishery and pollution controls. At the same time, it is having its budget reduced. We are giving it more to do but less money with which to do it.

Today we are giving the Coast Guard another mission—the responsibility for the enforcement of this treaty.

I am sure they will perform to the best of their ability, but I would hope when the time comes to consider their budget, we would give them more means with which to carry out their difficult duties.

Mr. President, I suggest at this time the absence of a quorum, the time to be equally divided.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PELL. Mr. President, I ask unanimous consent that the time on the amendment be transferred to the time on the bill.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

All time having expired on the amendment, the question will be on the amendment.

Mr. BYRD. Mr. President, does the agreement provide for a vote on the treaty immediately upon disposition of the amendment?

The ACTING PRESIDENT pro tempore. It does not. It provides for a vote at the expiration of the time.

The question is on agreeing to the amendment.

The amendment (No. 1127) was agreed to.

Mr. PELL. I move to reconsider the vote by which the amendment was agreed to.

Mr. BYRD. I move to lay the motion to reconsider on the table.

The motion to lay on the table was agreed to.

Mr. LAUTENBERG. Mr. President, I rise in support of the annex V Treaty of MARPOL. This is an essential step the United States must take to protect our oceans. Ratification of annex V is critical if we hope to make cleaner oceans and shores.

Annex V sets international regulations to prohibit ships from disposing of garbage in our coastal waters. It would end careless pollution from ships that dirties our waters and fouls our shores.

I applaud Senator PELL for bringing this treaty to the Senate floor and I strongly urge my fellow Senators to vote to ratify it.

Ratification of annex V in and of itself may not end pollution from ships, but without it our hopes for a cleaner ocean and unsullied beaches are little more than wishful thinking.

Furthermore, this is an opportunity to make a clear statement about the U.S. commitment, not only to cleaner oceans, but to the protection of our marine life. One of the major purposes of annex V is to control the disposal of plastics. Plastics are responsible for the death of many marine animals, including birds, turtles, and many marine mammals.

U.S. ratification would serve as a catalyst since the treaty goes into effect only after it has been ratified by coun-

tries representing more than 50 percent of the world's shipping tonnage. Nations that have ratified now account for 48 percent. American controls 5 percent of the world's shipping. Our ratification today would put the agreement over the halfway mark and trigger actual implementation.

There is overwhelming support for ratification of the treaty from all segments of the America population, not only from environmentalists but from fishing and marine industries, State and local governments, and many U.S. Government officials.

We need to recognize the consequences of failing to act on this critical treaty. I have seen the results of ocean pollution firsthand. New Jersey has an enormous coastline in contrast to the size of its land mass. We are very dependent on the resort industry. What we saw this past summer were tides of debris washed onto our shores. Vacations were ruined. Many summer businesses were seriously harmed.

I have introduced Federal legislation aimed at controlling plastic pollution. The Subcommittee on Environmental Pollution of the Environment Committee has marked up a plastics bill that incorporates much of that bill. One of its major purposes is to provide for U.S. implementation of annex V.

It is time to end this pervasive threat to our oceans and our marine life. We have delayed too long already. We will still have to wait a year after ratification for the treaty to take effect. We must act now before still more beaches are spoiled and more sea animals needlessly injured.

The next International Maritime Organization's Marine Environment Protection Committee is scheduled to meet on November 30. Adjustments to the world's shipping figures at the November meeting could change the balance needed to ratify the treaty or the U.S. share of the world tonnage.

If we fail to act now we may lose this opportunity. There will never be a better opportunity for the United States to show its commitment to cleaner oceans and shores.

America should be in the forefront of international efforts to protect our oceans. Mr. President, I call upon my fellow Senators to approve this vital treaty so we can protect our oceans and our shores.

Mr. D'AMATO. Mr. President, I rise today in support of annex V of the MARPOL Treaty. This treaty is essential in that it will ban the dumping of plastics and other garbage into the ocean by ships.

The dumping of plastics into our oceans has reached epidemic proportions. Recent studies indicate that each year approximately 640,000 plastic containers are dumped into the ocean by the world's shipping fleet and approximately 52 million pounds of plastic packaging material and 298 million pounds of synthetic fishing gear, including nets, lines and buoys are discarded by fishing vessels. Over the past few years, our beaches and coastlines have been bombarded with the plastics and other garbage thoughtlessly tossed overboard by marine vessels.

On October 10 of this year, the New York State Department of Environmental Conservation organized a group of volunteers to scour four of New York's beaches. The amount of garbage recovered by these volunteers was astounding. At Breezy Point Beach in Queens alone, over 4,000 separate items, or 1 ton of garbage, was collected; 90 percent of this garbage was plastics. The items included: 600 small plastic juice containers, untold quantities of plastic stirrers, hundreds of styrofoam cups, 18 automobile tires and countless quantities of automotive products containers—an unsavory beachcombers take, if a hefty one.

Mr. President, how can we allow our children to swim in waters that are brimming with garbage? The dangers posed to humans and marine life are immense. Ships are damaged by plastic sheets picked up in water intakes and from ropes and nets that foul propellers.

This problem is worldwide in scope. Ratification of this treaty by at least 25 countries would virtually eliminate this desecration of our precious, and all to fragile, oceans. This international agreement would become effective 1 year after at least 25 nations representing 50 percent of the world's shipping tonnage ratify it. The United States accounts for about 4 percent of the world's shipping tonnage. Twenty-seven countries, representing 45 percent of the world's shipping tonnage, have already ratified the treaty. U.S. ratification would increase the tonnage to 49 percent.

Mr. President, I urge my colleagues to ratify this treaty. Cleaner and safer waters, and beaches we and our children can safely enjoy, will benefit us all.

Thank you, Mr. President.

Mr. KERRY. Mr. President, for centuries our oceans have served as a dumping ground for ships at sea and the Nation's coastal cities. Today however, such dumping has reached epidemic proportions and created an alarming situation. America's oceans are literally being swamped with garbage.

For that reason, I strongly support the pending treaty to ratify Annex V of the MARPOL Convention. This treaty is critical in working toward cleaning up our oceans and shores and is a first step in ridding our waters and beaches of the fouling plastic pollution that is plaguing our marine life. Annex V prohibits the dumping and discharge by vessel signatories of plastic garbage anywhere in the ocean. Disposal of packing material is prohibited within 25 miles of the land and disposal of other garbage such as food wastes, glass, and metal, within 12 miles. In addition reception facilities capable of accepting garbage from vessels will be required at ports and terminals.

Earlier this year I chaired a Commerce Committee hearing on plastic pollution and what we learned at the hearing was alarming. According to the National Academy of Sciences they estimate that several hundred million pounds of plastic products end up in the sea each year. Plastic trash includes discarded fish gear, plastic bottles, six-pack holders, plastic bags, styrofoam packing materials, and a variety of other plastic objects. The consequences of having such plastic pollution littering our beaches and surface waters is staggering. Millions of birds, fish, whales, seals and sea turtles die each year from ingesting or becoming entangled in plastic debris. In fact recently off the Massachusetts coast, a National Marine Fisheries Service researcher studying marine life on Georges Bank, roughly 50 miles from shore, came across a fish with a plastic six-pack holder hooked around its gills. Not a very pleasant picture. Yet even more alarming, Mr. President, is the fact that such plastic garbage can take up to 450 years before the environment can break it down. To point out the extent of how this problem has grown, a new study by the Woods Hole Oceanographic Institution in my home State found that two to four times more plastic debris is washing up on our shoreline than just a decade ago. Recently, I helped sponsor "Coastweek '87," a month long volunteer effort to clean up Massachusetts beaches. It has been estimated that volunteers collected approximately 170 pounds of trash per mile during this clean up celebration.

The ratification of this treaty before us will not end plastic pollution in our waters, but it will work to significantly curb such marine abuse. Some of you may recall an incident last August off of Cape Code in which hundreds of bags of garbage floated up on the cape's historic beaches. Upon investigation it became clear that the origin of this garbage was a foreign vessel. The treaty before us today will ban such international abuse that has violated our seashore and marine life by making offshore ship dumping a crime. In addition, Mr. President, in the Commerce Committee we will soon be marking up a plastic pollution bill which will work hand in glove with this important treaty. Mr. President, I strongly support this treaty and urge my colleagues to vote in favor of the Annex V Treaty of the MARPOL Convention.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. PELL. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

All time has expired. The question is on agreeing to the resolution of ratification, as amended, on Executive Calendar No. 3, 100-3, 100th Congress, 1st session, regulations for the prevention of pollution by garbage from ships (annex V of Marpol 73/78).

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Tennessee [Mr. GORE], the Senator from Hawaii [Mr. MATSUNAGA], the Senator from Maryland [Ms. MIKULSKI], the Senator from New York [Mr. MOYNIHAN], the Senator from Illinois [Mr. SIMON], and the Senator from Mississippi [Mr. STENNIS] are necessarily absent.

I further announce that, if present and voting, the Senator from Tennessee [Mr. GORE] would vote "yea."

Mr. SIMPSON. I announce that the Senator from Missouri [Mr. BOND] is necessarily absent.

The PRESIDING OFFICER (Mr. BREAUX). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 93, nays 0, as follows:

[Rollcall Vote No. 368 Ex.]

YEAS—93

Adams	Fowler	Mitchell
Armstrong	Garn	Murkowski
Baucus	Glenn	Nickles
Bentsen	Graham	Nunn
Biden	Gramm	Packwood
Bingaman	Grassley	Pell
Boren	Harkin	Pressler
Boschwitz	Hatch	Proxmire
Bradley	Hatfield	Pryor
Breaux	Hecht	Quayle
Bumpers	Heflin	Reid
Burdick	Heinz	Riegle
Byrd	Helms	Rockefeller
Chafee	Hollings	Roth
Chiles	Humphrey	Rudman
Cochran	Inouye	Sanford
Cohen	Johnston	Sarbanes
Conrad	Karnes	Sasser
Cranston	Kassebaum	Shelby
D'Amato	Kasten	Simpson
Danforth	Kennedy	Specter
Daschle	Kerry	Stafford
DeConcini	Lautenberg	Stevens
Dixon	Leahy	Symms
Dodd	Levin	Thurmond
Dole	Lugar	Trible
Domenici	McCain	Wallop
Durenberger	McClure	Warner
Evans	McConnell	Weicker
Exon	Melcher	Wilson
Ford	Metzenbaum	Wirth

NAYS—0

NOT VOTING—7

Bond	Mikulski	Stennis
Gore	Moynihan	
Matsunaga	Simon	

The PRESIDING OFFICER. Two-thirds of the Senators present and voting having voted in the affirmative, the resolution of ratification is agreed to.

Mr. PELL. Mr. President, I move to reconsider the vote by which the resolution of ratification was agreed to.

Mr. BRADLEY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Chair recognizes the Senator from New Jersey.

Mr. BRADLEY. Mr. President, I ask unanimous consent to proceed for 4 minutes as in executive session.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BRADLEY. Mr. President, I rise today to offer my very strong support of ratification of annex V of the International Convention on the Prevention of Pollution from Ships [MARPOL]. It is high time we recognize the danger of ocean dumping and joined the international community in stopping ships from dumping their garbage into the ocean.

Ratification of annex V of the MARPOL Convention will ban the dumping of shipboard wastes within 25 miles off shore. Dumping of plastics would be banned completely.

A decade ago, the National Academy of Sciences estimated that 14 billion pounds of waste are thrown overboard by vessels at sea each year. That figure is clearly higher today. Our marine environment shows the effects of using the ocean as a garbage dump. We in New Jersey witnessed an awful spectacle last summer. Beaches up and down the State closed because pollution—including syringes and other hospital waste, plastics, and other forms of garbage—washed up on our shores. One source of that pollution was the thousands of vessels arriving in and approaching New York Harbor each year.

Not only does plastic waste and other debris follow our Jersey shore, but also, it poses a grave hazard to marine life. Sea turtles, pelicans, herons, cranes, and other water fowl become entangled in plastic fishing lines and net fragments, packing bands, six-pack connectors, and plastic bags. Dolphins and water fowl swallow plastic pellets along with other foods. It is estimated that 50,000 northern fur seals die each year after becoming entangled in plastic packing bands. That number, I am sorry to say, is growing.

Plastics do not sink or decay; they persist, and they float—until, of course, they wash up on our beaches or kill marine life. We must dispel the notion that the ocean is a convenient place to dump wastes. The problem has become so enormous that inaction is simply not an acceptable option.

Mr. President, the action we are taking today is of singular importance. But there are many other steps we must take to preserve our shore and our marine environment. We have to enact legislation to implement this treaty. We must curb the blight of plastic pollution on the domestic front.

The Environmental Protection Agency must move quickly on a request I have made to implement a system of tracking hospital waste from cradle to grave. The Secretary of Commerce must share an interagency task force to investigate the possible use of satellites to enforce the laws which make dumping a crime.

Finally, the EPA must use the funds the Senate has already provided to investigate the State of New York Bight and to assess ways to preserve the delicate estuarine areas that we value so greatly.

All these measures are intended to protect and preserve our oceans and shorelines. The treaty we will ratify today is one important part of the continuing effort to preserve the Jersey shore and the entire coastal area of the United States.

MORNING BUSINESS

Mr. BYRD. Mr. President, as in legislative session, I ask unanimous consent that there be a period for morning business, not to extend beyond 10 minutes, and that Senators may speak therein for up to 5 minutes each.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

PRESIDENT'S CHILD SAFETY PARTNERSHIP AWARD

Mr. SHELBY. Mr. President, in this body, we frequently rise to express our anger, our frustration, and our opposition to various situations, programs, and policies. Less frequently, however, do we have the opportunity to stand in this Chamber and speak about the good things that are sometimes overlooked among all the problems. Mr. President, today I have such an opportunity because the people in my home State of Alabama time and time again give me reason and cause to stand before this distinguished body and proudly share their accomplishments.

Today in a ceremony at the White House, Mr. Robert E. Cramer, the founder and president of the National Children's Advocacy Center in Huntsville, AL, will receive the President's Child Safety Partnership Award. Founded in May of 1985 by Mr. Cramer, the district attorney of Madison County, this north Alabama center has become a role model for three other centers in Alabama and several other centers nationwide.

Mr. President, we live in a country where conservative estimates reveal that the number of child deaths from abuse or neglect rose 23 percent between 1985 and 1986. We live in a country that has the highest teen pregnancy and infant mortality rates in the Western industrialized world. We live in a country that for too long has let the cries for help—the cries of children—go unheeded.

Indeed, child abuse is a problem that is both complex and emotional—a subject that for a long time has been almost taboo. It seems to me that for too long family problems have been viewed as just that—family problems—regardless of the fact that many of the problems have constituted criminal acts. A result of the secrecy that shrouds this issue is the problem of collecting any substantive statistics about the frequency, incidence, and degree of child abuse in the United States. This lack of information prevents a truly coordinated—national approach—to this problem which continues to permeate our society and gnaw away at the fabric of this country—the American family.

And that is why it is with a great deal of pride that I share with you the success of the National Children's Advocacy Center in Huntsville. This program is rooted in the concept of preventing the revictimization of abused children. This goal is accomplished by following three tenets: First, by enabling the children to experience their involvement with the responding agencies as therapeutic in the environment of the center; second, by holding more child abuse offenders accountable for their crimes; and finally, by enhancing the skills of the professionals who work with the abused children.

But above and beyond this, the National Children's Advocacy Center provides a safe haven for the children—a place to escape their problems, a place to receive counseling or talk with law enforcement personnel, a place to just be a kid—free from both the physical and emotional burdens of abuse. The Huntsville Center is a place away from the home, yet, in the community, where a child is free to deal with their problems on their own terms, at their own safe haven.

That, Mr. President, has been the formula for success for the National Childrens' Advocacy Center in Huntsville—a success that has brought the center to the attention of the President of the United States and has earned them this most prestigious award. I salute the National Children's Advocacy Center and Mr. Robert Cramer, its founder and president, for their tireless efforts to bring the crisis of child abuse out of the home and into the community. I feel confident that programs such as this in conjunction with the renewed support of the Congress as is evidenced by the swift passage of the Child Abuse Prevention Act just 2 days ago will help this country deal more effectively with the national problem of child abuse.

Mr. President, I yield the remainder of my time.

SENATOR STENNIS' 40TH ANNIVERSARY

Mr. JOHNSTON. Mr. President, today we are celebrating the 40th anniversary of the day Judge John Stennis came to the U.S. Senate. Before he arrived, he had already had more careers, served longer in public life, given more to his State and Nation than most people would in a lifetime. Today, over 13,000 rollcall votes and eight Presidents later, he is still going strong; to use his favorite expression, he is still plowing his furrow as straight as ever.

Compared to others, the United States is still a young country. JOHN STENNIS has been in the Senate for one fifth of its existence as an institution. It is possible to capture much of the history of a young country in the memory of a single man or woman. JOHN STENNIS remembers his mother telling him how her mother buried the family silver to hide it from the Yankees. He remembers growing up in the red-clay cotton fields of Kemper County, and knowing at first hand how vulnerable his State's rural economy was to drought or depression. But the Judge doesn't believe in looking back or going back. Through 40 years of legislative mastery and sheer hard work, he has fought for jobs and industry for Mississippi. Thanks to him, she holds her own among the 50 States, almost all larger and richer, and for the people of his State, this may be his greatest legacy.

They don't just appreciate him in Mississippi, they revere him. On August 3, 1985, his 84th birthday, they gave him a party in De Kalb, his hometown. Thousands of people, including a dozen present and former Senators of both parties, showed up to weclome him home. He was recovering from surgery, and of course we wanted to let him know how pleased we were to have him back at work in the Senate. We stood there on the courthouse porch and talked about his achievements—Tenn-Tom, the Appalachian Regional Development projects, the Naval Oceanographic Institute, the Pascagoula shipyards. But what we were really doing there, everybody, black, white, young, old, men and women—and the Judge says that the contribution of women to public life is the biggest change that has happened in his lifetime—was reaffirming our basic values. The grit that keeps a man coming back from illness and loss, time after time, that keeps him doing his duty as he sees it, is the attribute Americans admire most. In celebrating JOHN STENNIS' homecoming, we were celebrating what is best about Mississippi and about America.

He seems to me to embody all the values of the young republic, the concepts of duty and hard work, of courage and endurance, of courtesy and candor. He is, however, a modest and unassuming man. Looking across the street from the courthouse, we could see the sign on his office. In De Kalb, MS, they think of the President pro tempore of the Senate as "JOHN STENNIS, Lawyer."

He has brought those values to the U.S. Senate. Based on his knowledge and love of the laws of God and man, he set for himself standards of behaviour. He has shared them with us, to our great benefit, devising the Senate's first code of ethics and chairing the first select committee.

He is a great chairman of the Appropriations Committee because he is a frugal man, who knows a bargain when he sees one, especially a bargain for his country. Back in the 1970's, the Shah of Iran contracted to buy four destroyers. We all know what happened to the Shah, but maybe some people don't know what happened to the destroyers. When the Shah fell, the ships were under construction. Obviously, the shipbuilders wanted to be paid, and equally obviously, the ships couldn't be sold to the Iranians. The Judge convinced President Carter to buy the ships, and the United States got four *Kidd*-class destroyers at bargain-basement prices. Ironically, the U.S.S. *Kidd* is on patrol in the Persian Gulf today. A less farsighted man might have saved the money and passed up buying the destroyers; a less economical man might have spent twice as much. JOHN STENNIS has always tried to stretch the taxpayers' dollars as far as they will go to buy the best defense the country can afford.

For the 40 years while he served Mississippi in the U.S. Senate, he has also served his country. He has worked to develop its resources, military, economic and social. He believes in a strong defense, a sound fiscal policy and a productive educational system, and he has mastered the art of compromise which allows him to move, slowly and steadily, toward these goals. For 15 of those 40 years, I have had the honor and pleasure of serving with him, and learning from him.

One thing I learned is that you finish what you start. There was no way JOHN STENNIS was going home to De Kalb without writing his ticket on the Tenn-Tom. Working with him has been one of the great experiences of my life, and today I want to thank him for it.

FATHER JOHN P. SMYTH, A LEADER IN COMBATING CHILD VICTIMIZATION

Mr. DIXON. Mr. President, I would like to call the Senate's attention to the work of Father John P. Smyth, executive director of Maryville City of Youth in Des Plaines, IL. Father Smyth is receiving an award today from the President's Child Safety Partnership Committee recognizing Maryville's Paulina Home Shelter as one of the exemplary facilities in the country combating child victimization.

Sexually exploited children come from all parts of the country, all levels of socioeconomic status, and all racial and ethnic groups, Mr. President. The cycle of child abuse and exploitation perpetuates itself as victims become adults. However, intervention and treatment can bring victims back from the brink. The cycle does not have to perpetuate itself. Father Smyth recognized this and sought to do something about it. Paulina Home Shelter is the result.

Father Smyth opened Paulina Home in the city of Chicago in March 1985. The home's purpose is to provide for the care and treatment of victims of sexual abuse, child pornography and teen-age prostitution. More than 250 youths have received its services.

The good news, Mr. President, is that the program works; these youths are growing and developing a sense of balance where once there was none. In short, the program allows them a chance to be chidren again.

Under Father Smyth's leadership, Paulina Home seeks to heal the deep emotional scars these youths sustained as a result of sexual abuse. Paulina Home's program fosters renewal of the victims' spirits by providing a familial setting in which to begin the process of redeveloping self-esteem and self-worth.

Paulina Home works closely with the Cook County State's Attorney Office, the Chicago Police Department and the Illinois Department of Children and Family Services to provide care for these sexually exploited children. Their combined efforts have produced a more effective outreach program for the victims of sexual abuse.

Father Smyth, the director and staff at Paulina Home Shelter have worked tirelessly to bring these young people back into the mainstream, to heal the wounds of sexual abuse and to instill in them dignity, trust, and confidence.

The Nation, the people of Illinois, and especially the youth who have benefited from Paulina Home owe much to Father Smyth's vision and dedication. It is with great pleasure that I congratulate Father Smyth on his efforts, and wish him and the administration and staff of Paulina House continued success in the fight against child victimization.

We should further congratulate Father John Smyth, a former captain of the University of Notre Dame basketball team, on his 25th anniversary as executive director of Maryville which is totally dedicated to the training and development of our abandoned and unfortunate youth.

HEALTH CARE COST CONTAINMENT

Mr. DIXON. Mr. President, on October 14, 1987, Robert A. Schoellhorn, chairman and chief executive officer of Abbott Laboratories, spoke to the shared medical systems [SMS] health executives forum which was held in Palm Desert, CA.

I believe Mr. Schoellhorn's speech, "the cost and quality of health care's impact on medical technology" to be both timely and appropriate.

While Abbott supports and contributes to cost containment in the health care system, Mr. Schoellhorn expresses a potential threat to medical innovation from shortsighted approaches. He offers specific recommendations on how partners in the health care delivery system can work together to protect medical innovation and the long-term quality of the health care system.

Mr. President, I ask unanimous consent that Mr. Schoellhorn's speech by printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SPEECH OF ROBERT A. SCHOELLHORN, CHAIRMAN AND CHIEF EXECUTIVE OFFICER, ABBOTT LABORATORIES

Good morning. The assigned title of my talk today is "Medical Technology's Impact on the Cost and Quality of Health Care." I hope you don't mind if I take the opposite perspective of this subject by flipping the title around. That makes it "The Cost and Quality of Health Care's Impact on Medical Technology."

Let me explain. I believe everybody in this room appreciates the tremendous contribution medical advances have made to improve the quality of health care—and most of us appreciate to some degree how technologies can help control spiraling health care costs.

But what hasn't been aired publicly is the pending crisis medical technology now faces under the weight of today's simultaneous and somewhat contradictory demands for higher quality care and rigorous cost controls. The crisis is inconspicuous, but ominous. Important advances in medical technology face the threat of being sacrificed in the name of cost control. Obviously, we all have a stake in this.

To remind you of that stake and so we're all operating from the same premise, let me describe what I mean by medical technology. If the average American were asked to define medical technology, more than likely he would speak of highly visible items such as artificial hearts, computed tomography, liver transplants and the like.

I don't need to tell you that medical technology is much broader than that encompassing pharmaceuticals, devices, diagnostics, nutritionals and many other products. And that's only part of it—the manufacturer's contribution. You—the providers—have the other half of the equation—the skills to perform a procedure, interpret a result or supervise a process. Medical technology, then, consists of combinations of products, procedures and personnel that save lives and reduce costs.

The point is—medical technology involves all of us and together manufacturers, providers and purchasers need to address the potential threat to future advances.

Now "threat" is a strong word and I don't use it lightly. What makes it so serious is that for most of the public it's an unrecognized threat—which is understandable. After all, the rate of innovations and new breakthroughs is greater than ever before. But that's because most of today's medical advances came about in an era driven by untethered patient demand for more and better health care with virtually unlimited access. Today's environment is a very different one.

Few industries have changed so dramatically over such a short time. In just two decades, we've built a health care delivery system in this country that is second to none. A vast majority—80 percent—of Americans now have access to a system which includes the best in medical technology, most of it developed by U.S.-based manufacturers and providers.

This kind of expanded access has had its costs. Between 1966 and 1986, health care expenditures grew tenfold from $42 billion a year to $426 billion annually. It took a while, but these huge outlays did not go unnoticed by a government footing 42 percent of the bill.

So in 1983 President Reagan signed legislation enacting the prospective payment system for Medicare. It replaced the traditional means of reimbursing hospitals for their costs and substituted instead the preestablished rates you all know as diagnostically related groups of illnesses or DRG's.

Today, four years later, DRG's have not only revolutionized government programs, they have led to a revolution in the private sector. The competition that manufacturers have been facing for years has been unleashed among providers and insurers. Throughout the health care system, everyone whether it's HMO's, PPO's, hospital chains, third-party insured or employers is working within some kind of cost parameters.

As you well know, the name of the game today is creating incentives that direct health care utilization towards the most cost-effective systems and technologies. Much of the private sector's way of doing this is through a variety of "managed care" approaches. While providers traditionally emphasized quality, "managed care" focuses more on cost.

In the process, a new set of decision makers has been created. Medical care decisions are no longer the domain of only the physicians. Insurance companies, employers and utilization review coordinators are now acting as the gatekeepers to health care—and I might add, to new medical technologies.

So, the byword today is "cost containment." This isn't to say we've forgotten quality. We haven't. In fact, our growing elderly population's rising expectations of improved lifestyles has driven the demand for quality health care higher than ever. And this is the crux of the problem.

I believe that our system's responses to demands for cost controls are now on a colli-

sion course with the new medical technologies being developed in response to public demands for more and better health care. This brings us to a critical crossroads in deciding the value we want to place on protecting medical innovation.

Few of us here would disagree that the challenge for the future is to contain costs while continuing to provide as many people as possible with the highest quality care. But can this be done in today's cost competitive environment? Some thought leaders think these are contradictory goals that cannot be met without foregoing certain medical technologies and denying some patients access to the more expensive forms of health care. I don't believe this has to happen.

Our new competitive environment presents some excellent opportunities for manufacturers and providers to work together to achieve both goals. Prospective payment and many managed care approaches to cost controls do. However, they pose some very serious risks that could bring the rate of innovation in medical technology to a grinding halt. But there are ways to substantially reduce these risks.

Let me begin with two excellent opportunities stemming from cost control pressures that we need to capitalize on as soon as possible. The first is partnerships—or alliances—linking manufacturers, providers, and purchasers into comprehensive systems of health care delivery networks.

The genesis of these partnerships is improved communications. As all of us search for solutions to cost containment, we have been virtually forced to communicate with each other on an unprecedented level. Through communications, manufacturers now have a much clearer understanding of providers' day-to-day costs and quality problems, and as a result are focusing R&D on high quality technologies that reduce labor costs and shorten hospital stays. Providers, in turn, are gaining a better understanding of which technologies can reduce costs per case. And purchasers are setting clearer objectives for providers in terms of price, quality and patient outcome.

This kind of communications has led to the establishment of some prototype partnerships between various sectors of the health care system that set a promising trend for the future. For providers, this has included hospitals allying with other providers as well as with teaching facilities, nursing homes and suppliers.

A good example of this type of partnership is in the New England area where the Voluntary Hospitals of America has established a regional healthcare network of 17 hospitals, which includes such institutions as Massachusetts General and Lawrence Memorial. Working together, these hospitals have developed joint home health care, nursing homes and purchasing operations along with an extensive patient referral system.

Manufacturers, such as Abbott, are also getting involved. Two years ago Abbott established a Corporate Partnership Program which works closely with major health care providers to ensure our technology is used in a manner that maximizes both cost effectiveness and quality care.

Abbott and other manufacturers are also allying with each other. Just last week, Abbott and 3-M announced the formation of a partnership called the Corporate Alliance that will help hospitals lower the cost of acquiring branded health care products from the two companies. The Alliance initially offers hospitals three major services: a multi-vendor electronic order entry system, consolidated product delivery, and centralized customer service. We anticipate that other major health care suppliers will join the Corporate Alliance making it even more attractive to hospitals.

These examples are the embryonic stages of what health care delivery may evolve into by the year 2000. According to a recent article in the Journal of the American Medical Association, "The hospital of the future will be transformed into the critical care hub of a dispersed network of smaller clinical facilities, physician offices, and remote care sites that may stretch out as far as 200 miles from the core facility connected by air and ground critical care transport and integrated by clinical information and patient monitoring systems."

Now why are these networks—or partnerships—important to the future of medical technology? This brings me to the second opportunity. Up until recently manufacturers, providers, and purchasers, for the most part, have worked independently to innovate, purchase and utilize medical technology. That was O.K. as long as we could afford to subsidize the inefficiences and over-utilizations that something resulted. Today's environment doesn't permit that luxury.

However, the new partnerships being formed present a tremendous opportunity for manufacturers and providers to conduct joint research not only to evaluate clinical results (as we do today), but to assess long-term economic costs (which we don't do now). The synergy resulting from these relationships can contribute directly to new technologies with improved quality as well as economic benefits.

Now let me turn to the risks I mentioned earlier. Inherent in our new competitive environment is a substantial yet largely unrecognized risk of seriously damaging the innovative process that produces so many important medical advances for us.

Why do I believe this? As we have debated solutions to the cost of health care, two words have become synonymous: technology and expensive. New Drugs, new medical devices, new diagnostic tests and new procedures are often critized for their price and rate of utilization.

According to a study done by Lewin Associates for the National Committee on Quality Health Care, "Under the sometimes misleading label of 'intensity,' technology has been charged with responsibility for 20 to 50 percent of the growth in health care costs." In a recent Forbes magazine article, professor William Schwartz of Tufts University says, "Unless we are willing to forego the introduction and diffusion of innovative diagnostic and therapeutic measures, they will add billions to medical costs."

If we accept this kind of reasoning, we are allowing technology to become identified as the major factor in increasing the cost of health care. Nothing could be further from the truth.

Technology by its very nature offers us the opportunity to reduce costs. This can occur in two basic ways. First, technology can produce something that does the job better, more accurately or faster even though the specific technological element may cost more. Examples of this include premixed I.V. solutions that improve hospital productivity and less invasive surgical procedures, such as arthroscopic surgery that allows outpatient treatment instead of inpatient care. Most managed care systems recognize the effectiveness of these kinds of technologies.

There is a second type of technology whose primary quality and economic benefits do not immediately accrue to the system, but are realized in longer terms. This type also can lead to the development of cures or procedures that are not possible today.

A couple of quick examples come to mind. One is the continuous measurement of oxygen saturation with a catheter. While this new catheter technology is initially more expensive than the standard thermal dilution catheter, its superior ability to detect cardiac output problems early helps avoid complications which, of course, reduce longer-term costs.

Another example is the cochlear implant that offers a stone-deaf person a rather crude but nevertheless important advance in his or her ability to hear. This is an expensive technology. But it's an advance that is clearly the first generation of an increasingly sophisticated range of products—products with long-term economic benefits that can allow a person to be more productive in the workplace.

Unfortunately, these kinds of advances that do not produce clear, immediate cost savings are much less likely to be reimbursed by the government or purchased by providers. I can tell you—this doesn't offer a medical products manufacturer much incentive to invest in the development of such technologies. R&D decisions, after all, reflect the reality of the marketplace. This is a serious long-term problem—for you as well as us.

As CEO's of provider organizations, I'm sure you recognize that advances in medicine help you maintain your competitive edge—and as manufacturers we're proud to contribute to that. But the economic incentives of many cost driven plans run in the other direction. If we can't invest in bringing higher quality, cost-efficient products to the market, we lost the sale, and you lose your competitive edge. That's bad business for both of us. So in many ways, your future is our future.

What can we do as partners in the health care delivery system to ensure this mutual future comes out well for both of us—and, more importantly, for society? I have a few recommendations. Several of them are taken from the National Committee for Quality Health Care of which I am a trustee.

There are actions all of us can initiate and other actions that can be taken specific to each player in the system. This includes manufacturers, providers, physicians, purchasers, and government officials.

First, all of us must ensure that the high level of support for research and development of medical technology is continued in both the private and public sectors. Progress in medicine is heavily dependent on progress in technology. Illnesses that are not effectively treatable as well as high cost technologies represent problems that will likely yield only to successful research and development.

Second, all of us must evaluate technology, not only for a short-term effect on the bottom line, but for a system-wide benefit. This means we must readjust our reimbursement philosophy to take into consideration the fact that some new products with higher acquisition costs than older ones actually produce a net economic benefit. What we should be doing is spending more of our energy to assess the impact of a product on total costs associated with illness. This includes the efficiencies it brings to delivering

care and the economic benefit to the individual and to society of returning that person to good health sooner than would otherwise be possible.

Third, all of us must generate better data and do a better job of exchanging that data if we are going to improve the evaluation of long-term cost effectiveness. Information about the immediate and long-term clinical and economic impacts of technologies is a crucial element in making balanced purchasing decisions and allocating appropriate research expenditures.

Fourth, providers should do more to establish technology assessment procedures that integrate both quality and cost effectiveness. In the past, quality was the prime factor in assessing technology. Now, the pendulum has swung—too far in my opinion—over to costs. The decision process must be intergrated and a key element of this process is the physician.

That leads me to point number five—physicians must get themselves more involved in technology selections. They are the gatekeepers of quality medicine and traditionally have been the major decision makers regarding which technologies are adopted. With many managed care systems, there is a potential for technology decisions to be removed from medicine to the detriment of quality care.

Sixth, manufacturers need to do a better job of directing R&D dollars at technologies that are truly cost effective. If manufacturers are going to be successful under our new system of cost constraints, they must respond to market demands. This means making an extra effort to understand your economic incentives as well as those of health care purchasers and patients. One of the best ways for us to do this is through the partnerships between providers and manufacturers that I mentioned earlier. I might also add that providers have a direct interest in supporting research-based suppliers—the ones who actually develop new technologies rather than just copy someone else's innovations.

Seventh, manufacturers also must do a better job of marketing cost effective technologies to providers. Too many manufacturers try to impress customers with "high-tech" features and the "gee whiz" gadgets and promises that go with them. While high-tech features may get some products to market, your bottom line won't be helped unless you understand how products can be used to control your costs. It would be a shame if a product's bells and whistles overshadowed a real cost benefit that went unrealized.

Eighth, purchasers should be committed to long-term patient quality of care and cost effectiveness. Employers have the responsibility of educating employees on the value of insurance that protects them against the extremely high cost of long-term care. This could mean offering lower cost insurance plans that have better, long-term coverage but with higher deductibles and co-payments. In doing so, employers should reward competitive plans that are mindful of long-term, cost-effective technologies. In fact, early next year Abbott will begin an employee benefits program along these lines.

Finally, government needs to purge itself of regulations that serve as barriers to technology development. Examples are excessively restrictive government reimbursement policies for new innovations that limit the resources and incentives needed to conduct research on new technologies. Another example is the Health Care Financing Administration's review process. HCFA needs to begin reviewing devices for medical reimbursement before final FDA approval to avoid unnecessary delays in making cost-effective new technologies available to patients.

In conclusion, the new competitive environment and its twin driving forces of cost control and quality will have a significant impact on future medical technologies. Some of the impacts will be good. The search for cost reductions has forced many major health care players together. From these new partnerships will come significant efficiencies in the way health care is delivered as well as some important cost and quality improvements in medical technology.

However, the impact of cost-driven systems with myopic approaches to containment could seriously damage incentives to discover and develop new advances. All of us should be concerned about these incentives. We should be concerned about industry's ability to invest in R&D that is going to yield important advances with long-term economic efficiences—not just those that help cut costs immediately.

So all of us have a stake in protecting continued medical innovation and we need to work together to achieve this goal. Manufacturers, providers, purchasers, physicians, and policymakers can take specific actions together and as individuals to collectively assure that a balance is maintained between cost savings and quality health care.

We have worked hard to make our system of health care the best in the world. Let's do everything we can to keep it that way.

ENERGY AND WATER DEVELOPMENT APPROPRIATION ACT, 1988

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session and the clerk will report the pending legislative business.

The assistant legislative clerk read as follows:

A bill (H.R. 2700) making appropriations for energy and water development for the fiscal year ending September 30, 1988, and for other purposes.

The Senate resumed consideration of H.R. 2700.

Pending:

Johnston Amendment No. 1125 (to the first committee amendment), of a perfecting nature.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is ordered.

Mr. JOHNSTON. Mr. President, I send a modification of my amendment to the desk and ask that it be reported.

The PRESIDING OFFICER. The clerk will report the amendment of the Senator from Louisiana.

The assistant legislative clerk read as follows:

In amendment No. 125, insert new language after page 39.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

Mr. ADAMS. Reserving the right to object.

Mr. BYRD. That is not an amendment. It is a modification and the Senator is entitled to make it.

The PRESIDING OFFICER. The Chair will observe the Senator has a right to modify his amendment.

Mr. ADAMS. That, I understand, Mr. President.

The PRESIDING OFFICER. The Senator reserves the right to object to dispensing with the reading of that amendment?

Mr. ADAMS. Yes.

Mr. BYRD. It is not an amendment. It is a modification.

The PRESIDING OFFICER. The modification of the amendment will be made available to all Senators.

Mr. ADAMS. I thank the Chair.

The modification is as follows:

On page 39, after line 18 of the Johnston amendment No. 1125, insert:

"(1) on page 5, line 4, amend paragraph (2) to read as follows:

'(2)(A) Effective on such date of selection of a preferred site, the Secretary shall initiate a program of surface-based testing at the other sites selected for characterization as candidate sites for the first repository.

'(B) The purpose of the program under subparagraph (A) shall be to obtain such additional data as the Secretary determines is necessary to have sufficient information to evaluate the suitability of such other candidate sites for a repository should the preferred site prove to be unsuitable or inadequate for licensing under section 114(d).'

"(2) On page 25, after line 21, add a new subsection as follows:

'(d) Upon the date of the enactment of this section the Secretary shall phaseout in an orderly manner within 6 months of funding for all existing research programs designed to evaluate the suitability of crystalline rock as a potential repository host medium.'

"(3) On page 27, after line 20, add a new subsection as follows:

'(f) Not later than January 1, 1990 the Administrator of the Environmental Protection Agency shall promulgate revised standards for the disposal of radioactive waste under section 121.'

"(4) On page 27, strike lines 21 and 22 and insert in lieu thereof the following:

'OVERSIGHT BOARD

'(a) Within 30 days after the date of the enactment of this section, the Secretary shall seek to enter into a contract with the National Academy of Sciences (hereinafter in this section referred to as 'the Academy') for the purpose of establishing an oversight board under the auspices of the Academy to review and evaluate the scientific and tech-

nical adequacy of the Secretary's programs under this Act.

'(b) The oversight board established under this section shall consist of an appropriate number of scientists, engineers, and other individuals determined to be qualified by the Academy.

'(c) Activities of the Secretary to be reviewed by the oversight board under this section include—

'(1) activities under section 402(a)(2) relating to the information useful in selecting a preferred site;

'(2) activities under section 402(b)(2) relating to surface based testing at candidate sites that are not selected as the preferred site;

'(3) the site characterization program at the preferred site; and

'(4) such other activities involving significant scientific or technical issues as the Academy finds appropriate.

'(d) The oversight board shall establish procedures for the appropriate involvement in the work of the board by the Secretary, the Commission, affected states and affected Indian tribes. In addition to other reports deemed appropriate by the Academy, the board shall provide an annual report on the status of the programs of the Secretary under this Act that have been reviewed by the board. All reports of the board shall be available to the Secretary, the Commission, and the public.

'(e) The expenses of the oversight board under this section shall be paid from the Waste Fund.

'AUTHORIZATION OF APPROPRIATIONS

'SEC. 411. There is authorized to be appropriated from'.

"(5) On page 33, the last line of the table of contents is amended to read as follows:

'SEC. 410. Oversight Board.

'SEC. 411. Authorization of Appropriations.'

"(6) On page 25 after line 21, insert the following new subsection:

'(d) In the event that the Secretary at any future time considers any sites in crystalline rock for characterization or selection as a repository, the Secretary shall give consideration as a supplement to the siting guidelines under section 112 to potentially disqualifying factors such as—

'(1) seasonal increases in population;

'(2) proximity to public drinking water supplies, including those of metropolitan areas; and

'(3) the impact characterization or siting decisions would have on lands owned or placed in trust by the Federal Government for Indian tribes.'."

Mr. JOHNSTON. Mr. President, this modification does four things. First, it requires the National Academy of Science to created an oversight board to evaluate DOE's activities. Second, it requires the EPA to promulgate revised standard's for the disposal of radioactive waste by January 1, 1990. I think those are final ground water projection regulations by January 1, 1990. EPA would be subject to a citizen's suit if it failed to meet the deadline.

Third, it terminates all U.S. funding for research on granite as a possible medium for nuclear waste repository. There is presently a cooperative program with Canada by which this research is done, and that would be terminated.

Fourth, it provides that, in the event any future time the DOE considers crystalline rock sites as suitable for characterization, that it give consideration to disqualifying factors such as seasonal increases in population, proximity of drinking water, et cetera.

Finally, it requires additional surface based testing at the two candidate repository sites that are not selected for characterization on January 1, 1989. So that, in effect, what would happen here, Mr. President, is that once one site is selected for characterization, then surface based testing on the other two sites would proceed just in case the first site turns out not to be suitable. Then they would have additional information on the other two sites.

CLOTURE MOTION

Mr. JOHNSTON. Mr. President, at this time, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the modified Johnston amendment No. 1125 to the first committee amendment to H.R. 2700, an act making appropriations for energy and water development for the fiscal year ending September 30, 1988, and for other purposes.

Senators J. Bennett Johnston, Dale Bumpers, James A. McClure, John Heinz, Mark O. Hatfield, J.J. Exon, Bill Armstrong, Howell Heflin, Jeff Bingaman, Alan J. Dixon, Steven Symms, Robert C. Byrd, Jake Garn, Robert Dole, John Glenn, Warren B. Rudman, Lowell Weicker, Sam Nunn, Daniel J. Evans, and Nancy L. Kassebaum.

Mr. JOHNSTON. Mr. President, this cloture motion will be ripe for voting on Tuesday. I would like to explain to my colleagues that this is a cloture motion on the Johnston modified amendment. In effect what we have done is, the filibuster actually started on the first committee amendment. There are a whole group of committee amendments. The filibuster started on the first committee amendment. Last night we tabled an amendment to the committee amendment. So the pending business was the first committee amendment.

We have now sent an amendment to the desk which is the pending business which is a modification to the first committee amendment, which incorporates all the remaining committee amendments in one amendment. So, in effect, what we want to do is vote on all the committee amendments en bloc.

Second, it has some modifications, some of which I explained last night, which are not particularly far reaching. But the main effect of the amendment is to incorporate all of the committee amendments into one amendment, and the cloture will be on that amendment.

I would like to make clear to my colleagues that if we obtain cloture and then pass the Johnston amendment, as I hope we will, then it will be unnecessary to consider the further committee amendments. But cloture then will not affect the amendments to be offered on the bill itself. So that the bill itself will be further amendable as to both any nuclear waste provisions and other energy or water matters contained in the bill.

So, in other words, Senators who have a water project, for example, that they want to amend need not get their amendments in under the deadline provided. I think the deadline is on Monday. They need not worry about getting their amendments in by that deadline. All other amendments will be in order, in other words, after, I hope, cloture is invoked on Tuesday.

With that, Mr. President, unless my esteemed colleague, Senator MCCLURE, has anything to add? If he has not, then I will surrender the floor.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. BYRD. Mr. President, I ask unanimous consent that I may speak out of order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, so that I may know how to plan the business of the day, I would ask either or both the Senator from Washington or the Senator from Nevada, what their plans are with respect to the pending amendment? What I might expect? Then that will be helpful to me, if they can state it at this moment. Mr. President, I yield to either for the purpose of their answering my question.

Mr. ADAMS. Mr. President, I will be happy to respond to the distinguished majority leader. We are prepared to debate today all day on this if that is the wish of the majority leader. However, we have a cloture motion which has been filed, and I understood from the distinguished floor manager, the Senator from Louisiana, that we would go with the cloture motion until Tuesday; I think that is what he was suggesting. And that is certainly all right with us to go to Tuesday and, therefore, that would free the floor schedule for the majority leader to handle whatever business he wished to do today and tomorrow. We would like to confirm that unanimous-consent request, with the majority leader indicating that, so that we would all know exactly what we are doing and would free the floor for action.

Mr. JOHNSTON. Does the Senator yield?

Mr. BYRD. Yes, I yield for the purpose of enlightenment of myself.

Mr. JOHNSTON. Mr. President, first I will say that the Senator from Texas, Mr. GRAMM, wants just a couple of minutes to elucidate on his amendment. I must say that I very much enjoyed the speeches of yesterday and would like very much to hear further speeches today. I am, however, called elsewhere. But if the Senators do make speeches today I will do my best to be close to a television where I will not miss a word of it.

However, if they wish to move to something else, I will have no objection.

Mr. REID. Will the leader yield?

Mr. BYRD. I yield without losing my right to the floor.

Mr. REID. I would join in the remarks of my friend from the State of Washington.

If the leader has other matters he wishes to proceed on, I have no objection. I have, prior to the vote on cloture, I have a few remarks that I would like to make but they could be made at the pleasure of the leader.

Mr. ADAMS. Mr. Leader, we would be pleased to make our remarks on Tuesday so as to free up the schedule for the next 2 days if that is the leader's pleasure.

Mr. BYRD. Mr. President, let me then state that based on what the distinguished manager of the bill has said, and the responses by the two Senators who are opposing the pending amendment, it would be my plan to proceed through the day, stay on this measure but set it aside from time to time if we can do other business.

I have asked the distinguished Senator from Lousiana, Mr. JOHNSTON, to be one of the negotiators on behalf of the Senate with respect to the budget—the deficit reduction package that we are trying to develop. Therefore I feel that that is where he ought to be if he possibly can be at this moment, because it seems to me that that is a more urgent matter than this bill at this moment. Notwithstanding the fact that this is an important bill and I also urge that we pass that.

So, I will state to the Senators, all who are involved here, that we might plan, then, to shift from time to time. When we are not on other business, we can be on this business and the Senators may speak.

I feel it my duty to protect Mr. JOHNSTON while he is elsewhere at my request against anything happening untoward on this measure while he is off the floor today.

If that is understood and agreeable then we can proceed.

Mr. REID. Would the leader yield for one request?

Mr. BYRD. Yes.

Mr. REID. We would also ask that we be protected if the leader does pull this for whatever reason; that we be notified in a reasonable time in advance before the bill comes up again.

Mr. BYRD. The Senator may be assured that this Senator will protect all Senators to the best of his ability within the context of the rules.

Mr. ADAMS. I thank the majority leader and I just want to echo the request of my distinguished friend from Nevada that I note that the Senator from Louisiana is required to be in negotiations. We want to free him up. We, also, would request the same privilege and I am sure the Senator has the same idea in mind. If the majority leader does not have the schedule now but if he has one, if we could be notified when we should return to the floor after whatever business he wishes to place, whether it be nomination of judges on the Executive Calendar or whatever else, we would just appreciate our offices being notified. We will appear and try to accommodate the schedule of the majority leader and the rest of the Senators.

Mr. BYRD. The Senators have been most accommodating and most cooperative, and they are assured that I will notify them.

Mr. McCLURE. Mr. President, will the distinguished majority leader yield for a question?

Mr. BYRD. Yes.

Mr. McCLURE. It is my understanindg that under this arrangement this matter would be the pending business temporarily laid aside for other matters from time to time by unanimous consent, is that correct?

Mr. BYRD. Precisely.

Mr. McCLURE. Second, would it be the intention to continue that process again on tomorrow?

Mr. BYRD. That would be the intention on tomorrow, yes.

Mr. McCLURE. I thank the distinguished leader.

Mr. JOHNSTON. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. The yeas and nays are requested. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BYRD. I yield to the distinguished Senator from Texas.

Mr. GRAMM. If the distinguished majority leader would yield, both Senator BENTSEN and I are on the floor. We want to discuss a series of amendments having to do with property owner rights that were included in the Johnston amendment reintroduced last night. We would be very brief.

Mr. BYRD. Very well. Mr. President, I yield the floor with the understanding that, after a period of not to exceed 15 minutes——

Mr. GRAMM. Five minutes is fine.

Mr. BYRD. Not to exceed 10 minutes, that I be recognized.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Texas.

Mr. GRAMM. Mr. President, last night when the bill was reintroduced it contained three landowner rights amendments which I had planned to offer. Those amendments basically have to do with the taking of private property relating to site characterization and relating to the construction of a nuclear waste repository. They are sound provisions and I thank the distinguished Senator from Louisiana for including them in his comprehensive amendment.

The first amendment requires that if private property is taken for site characterization or for construction of a nuclear waste repository, then in evaluating that property the unique geophysical properties of that land be taken into account in giving an appraisal of the land for the ultimate transaction involving a purchase.

The second provision simply says that, while the Department of Energy can go out and lease land, that it cannot buy land from private property owners until a final site characterization plan is in place.

The third provision states that if private land is taken through a purchase for site characterization or for construction of a nuclear waste repository, that if the site characterization is terminated, if the site is deemed to be unacceptable, if a final decision is made not to build a repository there, that the private property owner who sold the land to begin with to make it available for characterization or for site construction would have the first right to buy it back.

These are straightforward amendments. They are amendments that protect the property owner. They give the property owner the advantage of the geophysical properties that the land contains, in terms of valuation and purchase. They minimize private land taking through purchase, until there is a final plan in place for site characterization.

Finally, they guarantee the landowner, if land is taken for site characterization and construction and ultimately is not used for the building of the repository, that that landowner would have, in essence, the right of first refusal in buying that land back.

Obviously, I am pleased that Senator BENTSEN joins me in this effort.

Mr. BENTSEN addressed the Chair.

The PRESIDING OFFICER (Mr. CONRAD). The Senator from Texas.

Mr. BENTSEN. Mr. President, I am pleased that the distinguished floor managers of the bill agreed to these three amendments. They address specific problems faced by people in Deaf Smith County. The first would require

that the Secretary of Energy value the land leased or purchased by the Department of Energy in such a way to recognize its unique geophysical characteristics. What we want to avoid is a situation where the land is leased or purchased at rates that do not fully reflect this land's actual value, either to the landowners or the nuclear waste program. That is particularly true now while the Texas economy is suffering. To some extent, this amendment allows the Secretary to place a premium on this land when it is being valued.

The other amendment makes so much sense I wonder why the Department is not willing to do it already. It requires the Secretary, to the extent that it is practicable, to acquire land only after a site characterization plan has been submitted and approved. This is needed to ensure that only the land necessary to be acquired will be taken out of private hands.

The last amendment affords landowners the first right to repurchase land that has been acquired by the Department of Energy. The point of this amendment is that if Deaf Smith County land is acquired by the Federal Government and the site is not developed as a repository or characterized, then the people from whom this land was acquired ought to have the first opportunity to buy it back if they want to do so.

I am pleased to have been able to work with my distinguished colleague from Texas, Senator GRAMM, on this. Our staffs have been working with Senator JOHNSTON's staff to make certain that the people here understand the problems of our constituents. They are the ones who have to live with the decisions we make here on this issue.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. BYRD. Mr. President, I thank the Chair.

MOVING THE TRADE BILL

Mr. BYRD. Mr. President, the distinguished Senator from Texas [Mr. BENTSEN], who is chairman of the Finance Committee and who is, I would say, general chairman of the Senate conferees on the trade bill, has indicated to me that the 17 subconferences that are handling the various components of this historic legislation are making excellent progress and a great deal of work has been done.

Some committees are nearing completion of their negotiations with their House counterparts. The staff is working hard. I believe that we can put a trade bill on the President's desk before we adjourn sine die this session.

Indeed, I believe that we have the duty to put a trade bill on the President's desk before we go out sine die.

There are those voices who say, "Wait." They say, "The market is jittery. Financial market are unstable; let us not upset them anymore."

There are some in the administration who may want to take advantage of the ups and downs of the markets to take the teeth out of the bill or to have no bill at all, who characterize any action by Congress on trade as negative, as protectionist.

Mr. President, this is not a fair-weather trade bill. Indeed, if economic times were rosy, if our balance of trade were positive, if the world trading system were fair and expansionist, if mercantilism were a thing of the past, if the international economic situation were robust, what need would there be for a trade bill? There would not be any.

If American industry were competitive, were all on the cutting edge of state-of-the-art techniques and technology, what need would there be for a competitiveness bill?

For those who say we should wait until the markets become more stable, by some unknown standard of stability, I ask this question: Does the uncertainty on U.S. trade and competitiveness policy lead to stability?

This bill is intended to expend trade, to expand the opportunity for American exports. It is not intended to penalize anyone who practices trading policy which is open and fair.

It is only punitive in those cases where the trading practices of certain Nations are, to put it bluntly, rapacious, using closed markets to protect their industries, while competing aggressively and sometimes unfairly through dumping.

The Senate provisions in this legislation were carefully crafted, and they commanded a strong, bipartisan majority, to get at the behavior of some nations and to change that behavior, and for whose benefit? For the benefit of all fair trading nations and to change that behavior so that others would not choose to emulate it.

That is the intent, Mr. President, of the so-called super "301 provisions" which threaten limited retaliation if mercantilist practices remain unabated.

As Mr. BENTSEN said just a few days ago, the stock market tragedy makes action on this bill more imperative, not less imperative. This bill is intended to promote more trade. It will enable us to sell more products abroad and will enable the Third World to sell more of their products in all world markets.

For example, Mr. President, the bill recognizes, for the first time, that long-term relief of Third World debt is essential for many developing nations—I think we might be reminded that that includes most of the major economies of our hemisphere—if they are to increase their trade. So, Mr. President, servicing their heavy debt repayment schedules cripples their ability to invest and, therefore, their ability to produce and export. Serving their onerous debt starves them of scarce foreign exchange, dollars, needed to buy our products.

The linkage between debt and trade is for the first time recognized in this legislation. There has been an absolute dearth of press attention to the use of this vehicle to help remedy this very difficult problem.

Mr. President, six Cabinet officers wrote the distinguished chairman of the Finance Committee, and provided me with a copy of their letter, on October 30. The letter deals with the problems the administration has with subconference No. 1, the Finance Committee-reported bill. I would like to take the view that the letter really means what it says in one part, that is:

> We are prepared to work with you on a bipartisan basis to develop forward-looking trade legislation. We could support a strong, responsible bill which will indeed enhance the ability of U.S. firms to compete in a global market and encourage other nations to open their markets further.

That is a good, positive statement, and I take it in a positive spirit, as a desire on the part of the administration to work with the Congress in the final shaping of the trade conference report. We are ready to talk to the administration about anything it wants to discuss in relation to the trade bill. We are ready to be accommodating.

Certainly, I do not agree with certain objections that the Cabinet officials raised with this bill. For instance, the officials say they "strongly oppose provisions that mandate American retaliation."

Mr. President, if there is no hammer in the legislation, then our efforts to open foreign markets, markets of modern mercantilist nations, will be very difficult to achieve. It flies against human nature to expect other nations to take, what will be at times, painful steps to open their own markets if there is no penalty for their not doing so. That is just plain realism in dealing with behavior changes, be they at the individual or national levels.

But I prefer to see this letter as the administration's opening position. I prefer to believe the administration is willing to be constructive, is willing to make accommodations. We are operating under the assumption that the President will sign a bill that is good for the country. We will sit down with his representatives, just as we have sat down with his representatives on the budget deficit, to try to reach a consensus on how the economy should be managed. We welcome a positive attitude. We invite good faith negotiations.

We in the Senate built a truly bipartisan coalition in passing our trade

bill. It passed by a vote of 71 to 27. For instance, the amendment, I crafted together with the leaders of the Finance Committee, Mr. BENTSEN and the distinguished Senator from Missouri [Mr. DANFORTH] and the distinguished Senator from Michigan [Mr. RIEGLE], and which was finally worked out in negotiations with the distinguished minority leader, Mr. DOLE, deals with the central question of mercantilist nation trading practices. It created a mechanism to deal with those unfair practices, a subject of keystone importance in the trade bill, and the amendment passed by a majority of 87 to 7. That major achievement was truly bipartisan. The same outcome be achieved with the White House. We are working out our differences with the House of Representatives, but at the same time we are mindful of the views of the administration. While we are not prepared to walk away from the need for meaningful and decisive action to make our industries more competitive, our people more educated, and the global trading system more growth oriented and open, we are ready to work things out with the White House. So the high road is available on the trade bill—but the destination of this vehicle must be reached in 1987.

It will no longer do for the administration to cry "protectionist wolf for congressional action on trade; the critics ought to stop to ask themselves a few questions: What is the signal to the world markets and to our trading partners, and to the world economy in general, if Congress decides to do nothing on trade now? Doesn't that mean that mercantilist behavior pays off? Doesn't that mean that the smart money should flow to closed markets? Doesn't that mean that the United States intends to do really nothing about its trade deficit and is incapable of exerting leadership to reform the world's trading system?

What are we saying about American leadership? Would doing nothing be better? Would continued uncertainty be greeted with relief, and stabilize the financial markets?

Mr. President, statistics can often be deceiving, but it is hard to dispute the nature of our present crisis. We are the world's greatest debtor nation, the accelerator is on the floor, and it is going straight down hill. In 1980, our external balance was a positive $106 billion, foreigners owed us that much. The breakeven point was in 1984 when we were not a creditor nation anymore, but not a debtor either. It did not take long to reach a crisis point. By the end of 1985 our external debt was $112 billion, it was more than double that by the end of last year, at $263 billion, and it is projected by the Congressional Research Service and the Senate Budget Committee to be some $400 billion by the end of this year. It seems quite likely that by 1990 our external debt will be somewhere around $500 billion. What does that mean? If the interest rate on that debt is 8 percent or so, a reasonable projection, we would have to run a trade surplus of $40 billion annually just to service our external debt, just to stay even, to meet our international payments on our debt.

Mr. President, our options are limited. What are they? We could close our markets to the outside world and engage in extreme isolationism. That would throw the world into a depression, and ourselves as well, impoverishing everyone. Nobody advocates that. Or we could cut our defense spending in half and balance the Federal budget in one fell swoop in the first year, pour about $150 billion per year for the next few years into competitiveness measures and try to turn around the trade balance, or pour it into paying off our external debt. Is anybody interested in biting on that? Are there any takers for putting the defense of the West and the security of the United States into the drainpipe to pay off our creditors? Or we could try to increase our exports and sharpen our competitiveness, in a fair and reasonable way which does not impoverish our trading partners and which expands the world trading system. But you cannot get there from here without action. Our national budget balance has gone from a positive deficit of $79 billion in 1981 up to a projected deficit of $148 billion this year. We have recently seen a downturn in the deficit number but only through painful action.

We are still deeply in the hole. Our trade deficit situation is the same story: in 1981 it was $40 billion; in 1986 it was up to $170 billion. The story speaks for itself. What is it going to take to get our budget deficit below $100 billion per year? What is it going to take to get our trade deficit below $100 billion per year? What is it going to take to get them both in black ink? At a minimum, it is going to take concerted action, bipartisan action, discipline, and a clearly charted course which the markets and our trading partners understand.

The Joint Economic Committee, under the able chairmanship of the distinguished Senator from Maryland, Mr. SARBANES, released a study on August 5, 1987, which lays it out. The study say that in order for the United States to restore its creditor status, today's trade deficits will have to be transformed into trade surpluses. The shift from deficit to surplus on our trade accounts must be faced, since international investors will not finance huge U.S. trade deficits forever.

The report outlines a strategy which will bring more rapid GNP growth combined with a strong improvement in our external account position. It includes new policies which will first improve the productivity and competitiveness of American industry; second, enhance worker skills; third, deal with the Third World debt crisis; fourth, improve the infrastructure of the American economy; fifth, produce an appropriate exchange rate; sixth, establish fairer rules of international trade and ensure open access for U.S. products in foreign markets. The trade bill now in conference attempts to address the whole range of factors in this most difficult, critical, and complicated area.

I have already alluded to the Byrd-Dole-Danforth-Bentsen-Riegle amendment dealing with the questions of unfair trading practices. I could elaborate at length on the whole range of other initiatives in the legislation, but I will confine myself to just one more: education. A major component of the bill focuses on education—perhaps the key ingredient in our Nation's ability to compete. Close to $900 million in Federal effort is on the House-Senate conference table. Both Senate and House bills contain a two-pronged strategy: They increase authorization levels for existing programs which relate to economic growth and competitiveness, and they create several new programs designed to address the special needs and concerns in this area. The legislation gives special attention to improving educational achievement of American children in mathematics, science, and foreign languages; disadvantaged youth and displaced workers; the educational needs of illiterate adults; and the increased use of technology in education.

Two programs which receive especially enhanced attention are the major math-science education program known as the Education for Economic Security Act which was begun in 1985, and the chapter I compensatory education program for disadvantaged youth. Other programs include foreign language training grants for elementary and secondary schools, demonstration grants for partnerships between schools and the private sector to develop education programs, and high technology education grants to schools.

Mr. President, psychology is important—market psychology, investor psychology. Perception becomes reality. There is work left to do in the trade conference. If we are to build confidence, a psychology of sureness, of determination, of implementation of the growth oriented strategy embodied in this bill, then the formula should be: To finish crafting this bill, to work with the administration and make the necessary mutual accommodations where they are sensible. The very worst thing we can do is to be panicked into doing nothing.

For 6 years this administration did not want a trade bill. It controlled the

Senate and it did not get a trade bill. Now there is a trade bill, a bill that had strong bipartisan support when it left this Senate with a vote of 71 to 27. That should indicate the kind of bipartisan support that this bill had in this body.

But to be panicked into doing nothing—does the administration see in the market crash an opportunity to scuttle this bill so that once again Congress goes through a year without passing a trade bill? That is not a solution. That is deepening the problem. That is the psychology of a loser.

Above all, Mr. President we must lead and we must show we can lead, we must demonstrate America can lead. And so, we are dedicated to completing this bill because we believe it serves the Nation, the competitiveness of our economy, and the future of a more open and robust trading system.

THE BUDGET SUMMIT

Mr. BYRD. Mr. President, for the past week and a half, while Members of Congress and officials of the administration have been engaged in negotiations on the budget, it has been common wisdom that it was the stock market's "crash" 2 weeks ago that brought the two sides to the table. There is some truth to that belief. But just as the roots of our deficit troubles started long before October 19, so must the solution look beyond the immediate symptoms.

Ever since the free world's leaders convened in Williamsburg, VA, in May 1983, for an economic summit, our industrial allies have called on the United States to get a grip on its budget deficit. That message was repeated, with more conviction, this past June when President Reagan traveled to Venice for the most recent economic summit. He heard the leaders of the major industrialized countries once more call on the United States to reduce its massive budget deficit.

It is no accident that other countries see the same dangers in the budget deficit that Wall Street sees.

Mr. President, other countries see that. I hold in my hand an AP wire, dated today. I will just read excerpts there from Prime Minister Margaret Thatcher:

. . . has sent a personal message to President Reagan "encouraging" efforts to cut the deficit, British official said today.

"The Prime Minister sent a supportive and encouraging message on efforts to cut the U.S. deficit," said an official, who spoke on condition he was not identified. But the official said the conservative party leader, Reagan's closest foreign ally, avoided suggesting specific amounts of budget cuts or tax increases.

The message was the first direct intervention by Mrs. Thatcher in the crisis and came as the U.S. dollar plunged to new lows and the London Stock Exchange headed lower.

Mrs. Thatcher's intervention coincided with the toughest speech yet by her chief treasury official, Chancellor of the Exchequer Nigel Lawson, demanding a cut in the deficit or more than the $23 billion required, under U.S. law and an increase in taxes.

News of Thatcher's intervention has splashed by the British media after the announcement Thursday. The British Broadcasting Corp. said Mrs. Thatcher has told Reagan to "sort out of his finances."

"Yankee Doodle Ditherers," said the London evening standard in a front-page headline on Lawson's Wednesday night address to businessmen in which he blamed the weak dollar and stock market chaos on the U.S. deficit.

Lawson said that narrowing the deficit has become "the touchstone of whether the United States has the political will to take hard choices and to do what needs to be done?"

Cutting State borrowing has been a key to Mrs. Thatcher's rigorous economic policies since she won power in 1979.

Mr. President, I ask unanimous consent to insert the AP wire in the RECORD in its entirety.

There being no objection, the material was ordered to be printd in the RECORD, as follows:

BRITIAN—UNITED STATES DEFICIT

LONDON.—Prime Minister Margaret Thatcher, intervening personally in the U.S. budget crisis, has sent a personal message to President Reagan "Encouraging" efforts to cut the deficit, British officials said today.

"The Prime Minister sent a supportive and encouraging message on efforts to cut the U.S. deficit," said an official, who spoke on condition he was not identified.

The contents of the message, sent Wednesday evening, were not disclosed. But the offiical said the Conservative Party leader, Reagan's closest foreign ally, avoided suggesting specific amounts of budget cuts or tax increases.

The message was the first direct intervention by Mrs. Thatcher in the crisis and came as the U.S. dollar plunged to new lows and the London Stock Exchange headed lower.

Mrs. Thatcher's intervention coincided with the toughest speech yet by her Chief Treasury Official, Chancellor of the Exchequer Nigel Lawson, demanding a cut in the deficit of more than the $23 billion required under U.S. law and an increase in taxes.

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"Yankee Doodle Ditherers," said the London Evening Standard in a front-page headline on Lawson's Wednesday night address to businessmen in which he blamed the weak dollar and stock market chaos on the U.S. deficit.

Lawson said that narrowing the deficit has become "the touchstone of whether the United States has the political will to take hard choices and to do what needs to be done,"

However, British officials indicated Mrs. Thatcher's message to Reagan was couched in gentler language.

Cutting state borrowing has been a key to Mrs. Thatcher's rigorous economic policies since she won power in 1979.

Lawson announced this week that the deficit in the current $261 billion budget will be just $1.76 billion, three-fourths less than originally predicted.

The opposition Socialist Labor Party's finance spokesman, John Smith, said today that expansion of West European economies, including higher British state spending, was also necessary to avert recession.

"The Government's line is to blame it all on the Americans. But it is not as simple as that," Smith said on BBC Television. "All Western Europe must take part in a process where the American deficit narrowly goes down and the others expand their economies,"

Mr. BYRD. The link between our budget deficit, our trade imbalance, the value of our dollar, and world economic growth is as complex as it is certain. Yet, as we are reminded almost daily, the world's economic future will remain shakey unless some sanity is restored to our Government's finances.

These negotiations began on a note of urgency and bipartisan cooperation. The negotiators have spent considerable time discussing a broad range of options on both the spending and revenue sides to reduce the deficit. At times, progress seems painfully slow and frustrating, especially when details of the talks appear in the press. I hope my colleagues on both sides of the aisle, and on both sides of the Hill and down at the White House—and the administration's representatives would redouble their efforts to refrain from public comments so as not to impose any additional burdens on an already difficult task.

Mr. President, these talks must succeed. The financial markets are still jittery and need reassurance soon. Our economic allies are growing increasingly impatient for some sign that the United States is willing to exert world economic leadership by cleaning up its own economic house first. And the American people need to have confidence that their Government is capable of governing, capable of making the tough choices that must be made.

There is too much at stake to allow the deficit to go unchecked. Or, for that matter, to allow a computer to make the automatic, across-the-board spending cuts otherwise required by the Gramm-Rudman-Hollings legislation. Those of us in public service, including the President and Members of Congress, have a responsibility to defend this country against all enemies, foreign and domestic, we take an oath to do so. And today, domestic enemy No. 1 is what? The budget deficit.

I believe that the negotiators have made progress. They have discussed specific proposals and the numbers associated with them. More remains to be done, and soon. As the talks continue, I hope all participants will recognize that full and free negotiations are vital. Without that essential ingredient, success will remain illusive.

Mr. President, the Senate negotiators have continued to work long and

hard to achieve an agreement with the White House to reduce the budget deficit. I commend them for their perseverance and their perspiration. Theirs may not be a popular task, and it certainly is not an easy one, but it is an important one. They deserve our thanks and our encouragement.

Mr. President, I thank all Senators, and I yield the floor.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, I ask unanimous consent that Senators may speak out of order for the next 30 minutes, if they wish to do so.

The PRESIDING OFFICER. Without objection, it is so ordered.

ANNIVERSARY OF THE IMMIGRATION REFORM ACT OF 1986

Mr. KENNEDY. Mr. President, tomorrow marks the first anniversary of the Immigration Reform and Control Act of 1986. It bears the name of the former chairman of the Immigration and Refugee Subcommittee, Senator AL SIMPSON, who guided that extremely important measure through the U.S. Senate and was instrumental in assuring that it won the support of the administration and became law. It was spearheaded in the House of Representatives by Representative RODINO, the chairman of the Judiciary Committee, and by Representative MAZZOLI, who worked long and hard on that measure as well.

I expressed my views on that legislation on the floor of the U.S. Senate last October, expressing my concerns. That measure, though, has become the law; and included in that measure is the most generous legalization program in the history of our country.

I think the Senate will want to know that that measure, providing amnesty, is now in effect and is now being implemented by the Immigration Service in an extremely generous and compassionate way. In the various INS offices across the country, hundreds of thousands of individuals are coming forward and adjusting their status. Most are doing it without the help or assistance of lawyers or church agencies. They are just doing it as individuals.

In the hearings we have had on the progress of that provision, plus the inspection of the various INS offices by the majority and minority staff members of the subcommittee, we find that the INS is doing an extraordinary job. I also believe the INS is to be commended in the way they are implementing the various sanction provisions.

It was always the intention of Congress that there be a period of time to implement the various sanction provisions. It seems to me that INS is doing that, following the letter of the law, but also following the spirit of the law, with a few exceptions. But in looking at the total record, I think it is a commendable one.

Mr. President, I want to again commend the Agency and again commend Congress for accepting the legalization provisions. Now, some 1 million individuals who were already making contribution to communities across our land will be able to adjust their status, emerge out of the underworld economy, free themselves in many instances from the worst kind of exploitation because they will no longer fear discovery that has been held over their heads, of being exploited in their jobs and in other aspect of their lives.

Mr. President, I think it is especially important on this anniversary date to pay tribute to all of those who have toiled over this past year in helping to make this legislation work. In passing this law, we knew we were entering some uncharted waters, and that its implementation would not be without its challenges. But those helping to implement this bill—both in government and in the private sector—have done so with integrity and enthusiasm, leading to the successes we celebrate today.

First and foremost, Mr. President, we should recogize the dedicated civil servants of the Immigration and Naturalization Service. In 107 legalization offices throughout the country, in all of the district offices, and here at the INS headquarters, countless men and women of the Immigration Service have worked to implement the sweeping provisions of this immigration reform. Legalization officers at the local level have exhibited tremendous leadership and resourcefulness in bringing the program to the doorsteps of our communities. They deserve our respect and commendation.

We required the Immigration Service to take a large leap into the unknown, as no one knew who and how many would apply for legalization. We knew that early participation in the amnesty program would be sparse, and that it would be necessary to go to great lengths to encourage applicants to step forward. We knew that the Congress was divided over the legalization program. But I am pleased to report that these challenges have been more than met by INS, and that the legalization program has been administered in a generous and flexible manner.

And this is reflected, Mr. President, in the confidence that legalization applicants have shown in coming directly to the INS without the counsel of attorneys or voluntary agencies. The statistics show that undocumented aliens are voting with their feet—having the confidence to come to INS offices to legalize their status. This is the best evidence of the good work of INS legalization officers in the field, and a credit to their performance in reflecting both the letter and spirit of the amnesty enacted by Congress last year.

Equally important has been the work of so many in the private sector, particularly the voluntary and church agencies. Whether as qualified designated entities or simply as volunteer organizations, they have all played an extraordinarily important role in implementing this legislation.

Together they have formed an important partnership with the Government in bringing the word of the law to those who can benefit from it, and protecting and assisting those who need it. We must nurture their role in this program to ensure that every person has a chance to apply for legalization.

Although the statistics are impressive, Mr. President—and I will introduce a summary of them at the conclusion of my remarks—this is also an occasion for new resolve to carry forward the progress we have already seen in immigration reform.

We are only halfway through the legalization program, and while almost 1 million have come forward, by most estimates an equal number remain to be processed. It is important for all of us involved in this effort to encourage families to come forward and apply. Even if not all family members ultimately qualify, families need to understand that there is no risk in pursuing legalization and that the principle of "family unity" will not be violated by INS officers in the field. That is clearly the intent of Congress, as I outlined in a letter to INS Commissioner Nelson, which I will also include in the RECORD.

There has also been commendable progress in the implementation of the employer sanctions provisions of the new law. INS, appropriately, has treaded softly with employers. It has used the 1-year education and information period established by Congress to undertake an outreach program and to inform our Nation's employers how to comply with the provisions of the new law.

In conclusion, Mr. President, while there is much to commend in the progress achieved on this, the first anniversary of the new law, there is also much that remains to be done.

We must continue to pursue the implementation of employer sanctions in a thoughtful and nondiscriminatory way—to take whatever actions necessary to assure that employees and employers alike are treated as the law requires. This will require continued public education and counseling.

We must also continue efforts to spread the word about the legalization program to encourage undocumented aliens to come forward, and to continue to adjust the program to achieve

that end. Our subcommittee will work with INS in support of efforts to involve community and church groups in the legalization program, as I believe their role will become increasingly important in the later stages of the program.

Mr. President, we are 1-year and midway through the first steps to implement the immigration bill. Much has been achieved, and many should be commended—not the least the Senator from Wyoming.

Yet much remains to be done. And the remaining challenges are there for all to see.

To meet them will require a redoubling of the efforts of those in the churches and private sector, as well as the officers of the Immigration and Naturalization Service. I know they will rise to the challenge.

Today, we are halfway there in terms of the legalization program; and I believe that if we follow the steps which have been taken to date, that this program will continue to move forward compassionately.

The Senator from Wyoming is to be commended for his perserverence in this legislative effort, and we will look forward periodically to giving the membership an update on the progress that is being made.

I welcome the chance to make this brief report with my good friend and colleague, the Senator from Wyoming [Mr. SIMPSON].

Mr. President, I ask that my recent correspondence on the implementation of the immigration bill, as well as a statistical fact sheet, be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD as follows:

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC, October 14, 1987.

Hon. ALAN C. NELSON,
Commissioner, Immigration and Naturalization Service, Washington, DC.

DEAR COMMISSIONER NELSON: As you know, the issue of providing an interim legal status to immediate family members of persons qualifying for the legalization program is one which has been raised with you in oversight hearings by the Subcommittee. We understand this is currently under review within the Immigration and Naturalization Service. While we know that it is not your intent that immediate family members who are disqualified for legalization be deported, we would nonetheless encourage INS to develop a Service-wide policy which would—on a case-by-case basis and to avoid unnecessary hardship—permit such family members to remain in the United States through a number of available interim legal statuses.

We believe these administrative actions in no way contradict the Senate's legislative history in the Immigration Reform and Control Act of 1986, which states:

"It is the intent of the Committee that the families of legalized aliens will obtain no special petitioning rights by virtue of the legalization. They will be required to "wait in line" in the same manner as immediate family members of other new resident aliens." (S. Rpt. 99-132, p. 16)

A policy which permits certain immediate family members an interim legal status would not alter the requirement that they "wait in line" like all other immigrants for their permanent legal status until their legalized relatives can petition for them.

It is our view that a policy directive should be issued which will permit District Directors, on a case-by-case basis, to use any of a number of authorities already available to provide an interim legal status to those immediate family members of legalized aliens who qualify.

We think that such a policy clarification should be made as soon as possible, and the Subcommittee staff is at your disposal for consultation on this matter, as well as any further assistance you might need from us in developing such a directive.

Best wishes, and many thanks for your consideration.

Sincerely,

EDWARD M. KENNEDY,
Chairman.

PAUL SIMON.

[IRCA Fact Sheet No. 1]

LEGALIZATION OF ELIGIBLE ALIENS

APPLICATIONS

Legalization Office: One of 107 INS offices throughout the U.S. with 1,956 positions created specifically to handle legalization applications.

QDE: Qualified Designated Entity. Officially designated community organizations qualified to handle legalization applications. There are 964 throughout the U.S.

RPF: Regional Processing Facility. Legalization applications are forwarded to one of four RPFs for review—authenticity of documents, possible police records, etc.—after which, a temporary resident card is issued (I-688).

STATISTICS (AS OF 10/15/87)

Number of applications	701,847
SAW	154,249
Total	856,096

Number of applicants interviewed: 727,935

Number of temporary resident cards issued: 88,987

MATERIALS/SOURCES

Videotape: Step-by-step process of filling out forms for filing an application (in Spanish).

Legalization Handbook: Two million handbooks, in English and Spanish, are being printed by the Government Printing Office and will be ready for distribution in late October-early November.

Toll-free information number: 1-800-777-7700.

Any INS Legalization Office or QDE.

[IRCA Fact Sheet No. 2]

LEGALIZATION OF SPECIAL AGRICULTURAL WORKERS [SAW]

APPLICATIONS

SAW Group 1: Aliens who have worked at least 90 man-days in seasonal agricultural services in each of the three years ending May 1, 1984; May 1, 1985, and May 1, 1986. Can apply for permanent resident status after one year as a temporary resident.

SAW Group 2: Aliens who have performed seasonal agricultural services in the U.S. for at least 90 man-days from May 1, 1985 to May 1, 1986.

H-2A: A new streamlined program by which the Department of Labor and INS can process employer applications for temporary agricultural workers during emergency labor shortages.

QDE: See Legalization Fact Sheet. There are 157 agriculturally oriented QDEs to assist SAW applicants in going through the legalization process.

INS SAW SERVICES

Regions: 40 INS mobile van offices schedule informational meetings and assist in the legalization process in remote areas. Intensive press publicity to inform farm workers when a van will be in a given area. Cooperative programs with growers to help their workers use van services.

Legalization offices are open weekends and evenings to accommodate the schedules of agricultural workers.

Special SAW staff members to answer questions on SAW program and assist applicants.

Mexico: In Mexico, application forms and instructions are available at all consulates and at nine consular agencies. Processing of applications is done at consulates in Monterrey and Hermosillo and the consular section of the American Embassy in Mexico City.

STATISTICS (AS OF 10/15/87)

SAW applications: 154,249.

[IRCA Fact Sheet No. 3]

EMPLOYER AND LABOR RELATIONS

ELEMENTS

LAW Program: Legally Authorized Worker Program. Designed to put employers in contact with lawful workers in need of jobs, including welfare recipients, migrant workers, unemployed, youth.

SAVE: Systematic Alien Verification for Entitlements. An automated system for checking the documentation and status of aliens who apply for public benefits, such as welfare, food stamps, educational assistance, housing and unemployment compensation.

I-9: The employment eligibility form that must be completed by everyone starting a job. It must be signed by employers verifying the employee has submitted documents showing identity and eligibility to work. Available through GPO bookstores and INS offices.

ELR STAFF

Washington, D.C.: A position of Assistant Commissioner, Employer and Labor Relations, was created.

Regions: 71 specially trained ELR officers have been strategically placed throughout the U.S. to assist in the employer-education program. Also, 50% of investigator time is to be spent on educational visits.

STATISTICS (AS OF 10/15/87)

Number of Employer Handbooks (M-274) distributed: 6.7 million directly through an Internal Revenue Service mailing. Another million were distributed on request through INS offices.

Number of employer contacts: 259,000 (Program calls for visits to one million employers to provide them with information on their IRCA responsibilities.)

MATERIALS/SOURCES

Videotape: "Complying with the New Immigration Law"—explains employer responsibilities and the sanctions that would ensue if they hire people not authorized to work in the U.S. or fail to verify the eligibility of those they do hire. About 1000 copies of this

videotape were distributed to INS offices, major employer and labor groups, and individual employers. The tape may be copied but not sold for a profit. Employer Handbook: The M-274 can be bought from the Superintendent of Documents, U.S. Government Printing Office or at local Government Printing Office bookstores. Copies are also available for consultation at public libraries.

Poster: Provided to INS offices for distribution to employers who, by displaying it, pledge to comply with IRCA's requirement to hire only legally authorized workers. Copies available from the nearest INS office.

Speaking engagements: INS officers address trade, business and agricultural organizations on request. Inquiries should be addressed to the ELR Officer, INS District Office.

ENFORCEMENT

First citations were issued: August 21, 1987.

Total citations to date: 141, as of October 16.

Fines to date: On October 2, the first notices of intent to fine were served. The two firms were Quality Inn, Arlington, Va., and a waterbed frame maker in El Cajon, Calif.; they face potential fines of $16,500 and $6,000, respectively.

[IRCA Fact Sheet No. 4]

ADVERTISING PROGRAM THROUGH OCTOBER 1987

NUMBER OF INFORMATION CONTACTS

Legalization, Spanish TV: 242,000,000.
Legalization, Spanish Radio: 124,000,000.
Legalization, English Radio: 132,300,000.
Sanctions, English TV: 69,600,000.
Sanctions, English Network Radio: 27,200,000.

CIRCULATION

Legalization, Ethnic Print: 3,710,000.
Sanctions, Major Daily Newspapers: 10,400,000.
Sanctions, Smaller Newspapers: 18,700,000.
Sanctions, Trade/Consumer/Agriculture Magazines: 7,500,000.

ESTIMATED VALUE OF PSAS TO DATE

Television: $1,500,000 ("free" ads).
Radio: $750,000 ("free" ads).

PERCENT OF TOTAL AD DOLLARS SPENT

Legalization Advertising: 49 percent.
Sanctions Advertising: 51 percent.
Print advertising will be 48 percent of total $; electronic, 52 percent.

COVERAGE

Radio stations bought in program: 2,000+.
Television stations used in program: 250+.
Farm Radio Networks used in program: 8.
English Newspapers: 60 cities with 95 newspapers.
Foreign Language Radio Markets, other than Spanish: 21.
Foreign Language Print Ads: 20 cities with 46 newspapers.
English legalization advertising: 12 major markets.
Spanish TV Hispanic households: 90%.
Spanish TV purchased: 2 networks and 14 spot markets.
SAW Legalization Spanish Radio: California, Texas, Arizona, New Mexico, Florida.

LANGUAGES USED IN IRCA ADVERTISING PROGRAM

Armenian, Arabic, Albanian, Assyrian, Afghanistani, Basque, Bulgarian, Croatian, Chinese, Czech, English, Farsi, Finish, Flemish, French, German, Greek, Hindi, Hungarian, Italian, Japanese, Korean, Latvian, Lithuanian, Lebanese, Persian, Polish, Portuguese, Romanian, Russian, Serbian, Slavic, Spanish, Ukrainian, Urdu, Vietnamese.

[IRCA Fact Sheet No. 5]

Financial statement

Media buys (April through September 1987):	
Hispanic Spot Radio: Pre-May 5, 1987	$72,000.00
English Newspaper: Special ½ page July 1987	125,400.00
Hispanic Network Television: Univision	340,340.00
Hispanic Spot Television	319,303.00
English Network Television: CNN and ESPN	213,933.00
Hispanic Radio Network	49,470.00
Hispanic Spot Radio	370,343.00
English Network Radio	498,100.00
English Spot Radio	280,784.00
Ethnic Print, Spanish/Asian	91,044.00
English Newspaper	624,517.00
English Magazine	322,535.00
Subtotal, media buys (cost only)	3,307,769.00
Fees:	
Western International Media 5 percent placement fee	165,389.00
The Justice Group Fee at 8 percent	277,853.00
Subtotal	443,242.00
Other:	
Charges for advertising production, labor, travel, telephone, and other out-of-pocket expenses—April through June 1987 (subtotal)	1,239,928.32
Grand total	4,990,939.32

Mr. SIMPSON. Mr. President, before my friend from Massachusetts leaves the Chamber, let me say that he was of immeasurable assistance to me in regard to the Immigration Reform and Control Act. There were some tremendous political realities that he was confronted with on the bill and he shared that with me throughout the proceedings. I understood fully, for they were things that happened in his State. But whatever original movement was made here on this issue was made because of the persistence of the Senator from Massachusetts, who, for 17 years, was involved in the Subcommittee on Immigration and Refugee Policy, who mastered the issue, who held hearings on the issue, who often was ready to proceed with the issue in the U.S. Senate. But the then chairman of the Judiciary Committee was reluctant to do so. Chairman RODINO, would send the important essence of immigration reform over here twice, which was employer sanctions, and the Senator from Massachusetts would pick it up and proceed with it, but it never got through because of the reluctance of the now deceased former chairman of the Senate Judiciary Committee.

When I came upon the scene, the Senator from Massachusetts helped me in learning the issue. He was a good counsel. He knew the techniques; he knew the technical work that had to be done. We served together on the Select Commission on Immigration and Refugee Policy and I look forward to working with him in the future as we grapple with legal immigration issues, and that will be presented in the Senate very shortly. It is a distinct pleasure to have him working with me; and, more than that, to enjoy his friendship.

Mr. President, it has been a full year since President Reagan signed into law the Immigration Reform and Control Act. I had first introduced that bill nearly 6 years earlier; and while this body provided an extraordinarily strong bipartisan support for the immigration reform legislation effort by passing it by wide margins in Congress after Congress, the special interest groups across the full spectrum of political ideology opposed the bill.

They claimed it would cause discrimination against employees. They claimed it would impose unfair burdens on employers, it would cause labor shortages, and a remarkable variety of other ills were contended.

Now, Mr. President, we are only 6 months into the actual implementation of the principal portions of the bill, and I believe it is proper and fair to say that the legislation is proving to be successful, perhaps more successful than many optimistic supporters had expected. Although employer sanctions, which is the very keystone of the bill, is still in the educational stage of implementation, most employers appear to be doing their level best to comply with the law. There is a great deal of voluntary compliance. Reduced apprehensions of illegal aliens along our southern border would indicate the law is having the desired effect. After years of seeing the steadily increasing apprehensions along the southern border, apprehensions in the past fiscal year dropped 30 percent.

To date, complaints of employment discrimination have been few and unproven, and labor shortages in Western agriculture which some anticipated—and even, I think, sometimes hoped for in the Northwest—have not materialized, at least not in the figures we have.

Those are important things I think to keep in mind.

We do have a special counsel on board now and he will be reviewing whatever complaints of employment discrimination might be presented.

The legalization, which, of course, was the most controversial aspect of the bill, was opposed by some who feared it would legalize "millions upon

millions" of illegal aliens, and by others who said it would provide legal status for too few persons, perhaps only a few hundred thousand. Both apparently were wrong. Thus far, more than 900,000 applications for legalization have been received, which is right in line with the Congressional Budget Office's preenactment estimated total of 1.5 to 2 million persons.

We are going to be awfully close to that. An interesting thing is it has not cost the American taxpayer at all, for the legalization fees are covering the Government costs of implementation, just as the Congress had intended. This is what we said. That it should be self-generated and it is.

Many were also concerned that the Immigration and Naturalization Service, so long under-funded and maligned from all quarters, would be unable to fairly and firmly handle the implementation of the bill. I join with my friend from Massachusetts in saying that we see that the INS has truly, I think, met the test. I believe the "naysayers" have been proven wrong again. Having adequate funding for a change, the Immigration Service, under the very able and the wholly accessible nature and personality of the Commissioner, Al Nelson, has shown itself to be fair, firm, and trustworthy. I think it is an agency that reflects the personality of its director. It is trustworthy. We see that now more than 85 percent—I think this is very important—85 percent of the legalization applicants, those illegal aliens who are seeking legal status under the bill, or amnesty under the bill, have applied directly to the INS for that remarkable act of grace. Now, that is interesting. They came to the INS rather than go through the voluntary agency networks which we felt we had to establish in order to accept applications if we were to be sure we could encourage a "fearful" alien to come forward and apply under the bill. We felt that they would feel that they would not go to the INS, they would be frightened, indeed, a natural antipathy. So we set up the qualified designated entities [QDE's] and yet they are being underused because people seem quite willing to go right to the INS for their application. I think that is good.

I always counsel people, too, "You need have a lawyer to do this," and I think there are some lawyers who prey upon those people and prepare some rather dazzling applications and forms, and I am not saying that within the voluntary agencies—for they do a superb job—or about the qualified designated entities; they do a superb job. But others who present that they are the "key to freedom" and charge accordingly, I think, they badly serve the profession that I very much love.

So those are some things I just wanted to review.

The Immigration and Naturalization Service I think has performed particularly well in implementing the legislation and carrying out true congressional intent, as expressed in the debate and in the legislation.

I think while we want to be optimistic, we must continue to follow closely the implementation of the legislation through our oversight responsibility. I think the really important thing is that all the players are here. The people who put together the legislation are all here. We know what needs to be done. We are ready to assume our burden and we will. We will follow matters very closely.

We must continue to adequately fund the Immigration and Naturalization Service. We must continue to search for solutions to the conditions in the sending countries which generate undocumented migration and the legisltion did create the Commission for the Study of International Migration and Cooperative Economic Development which is chaired by a true professional and another friend of mine, and of the Senator from Massachusetts Ambassador Diego Ascencio. I look forward to working with him and this very distinguished Commission and they have some superb members, Father Tim Healey of Georgetown, and other remarkable American citizens serve on that commission.

We look forward to working with them as we anticipate receiving their conclusions and their recommendation, and for the record the members of the Commission are: Diego Ascencio, Donna Alvarado, Eric Biddle, Toney Anaya, Dale DeHaan, Art Torres, Michael Teitelbaum, Rev. Timothy Healey, J. Garner Cline, Esther Lee Yao, Edward Rivera, and Congressman JOHN BRYANT.

We are very fortunate that people like that will come forward to serve, and I have worked with many of them personally.

Finally, Mr. President, it is important now to go on to reform our legal immigration laws in order to more adequately meet the current needs and conditions in the United States, because the last major change in our legal immigration laws occurred more than 20 years ago—the Senator from Massachusetts was instrumental in that—when we repealed the national origin quotas in an effort to make immigration to the United States a possibility to people from all nations, a very worthy goal we would all embrace.

While our intentions were inherently good and indeed proper, the changes have had the unexpected effect of denying legal immigration opportunities to most people in the world who do not have family connections in the United States.

We must make some reasonable changes in the law to open immigration to independent immigrants who now have little hope or opportunity to seek a new life in America, as so many have in the past.

Congressman SCHUMER of the House is working on that, a superb ally in illegal immigration reform. He refers to that as a classic immigrant, a return to the view of the classic immigrant. Father Hesburgh, who is my great friend from Notre Dame, referred to it as the seed immigrant. We want to pursue that and we will do that on the basis which is not at all discriminatory of others but takes into a new view family reunification and classic immigration in this country.

So I shall be there to try to help make the changes to open immigration to those who have this new hope, and we will give them that. I look forward to working with my friend and colleague and chairman of the subcommittee, Senator KENNEDY, and with the interested members of the House subcommittee and the full committee, a splendid group, who are completely pleasant to work with. When I say the "chairman" in the House we speak only for PETER RODINO, a superb ally and great friend, and RON MAZZOLI, my sidekick from Kentucky, and the new ranking member of the subcommittee, the Republican PAT SWINDALL, whom I am looking forward to coming to know better. His predecessor, DAN LUNGREN, was a superb compatriot and HAM FISH, the ranking member of the full Judiciary Committee, and CHUCK SCHUMER who, indeed, being a congressional Representative from Brooklyn had no possible stake in anything but the turmoil of immigration reform and did so with remarkable ability and skill.

So I look forward to working with them as we make needed changes now in our legal immigration laws during this Congress. We will present you, I think, with a very thoughtful package and hope you will look at it carefully and we will still continue our responsible oversight of the implementation of the 1986 immigration control bill.

It was a great pleasure to be part of that legislation and we must see that it works properly, with compassion and reason and in a very humane way.

I thank the Chair.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ENERGY AND WATER DEVELOPMENT APPROPRIATION ACT, 1988

The Senate continued with the consideration of the bill (H.R. 2700).

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I rise to speak on the pending matter before the Senate, H.R. 2700, and the amendment thereto.

Mr. President, yesterday, we discussed at some length nuclear waste and nuclear waste repositories. I thought it would be important this morning to talk for a short time about what those of us who are opposed to the present legislation that is on this appropriation bill are trying to accomplish.

Yesterday, we criticized the Department of Energy and we had many reasons for doing so. But I think it now is time to talk a little bit on a positive note, the positive note being that we feel it is important to indicate to our colleagues here in this body that those of us who are opposing this legislation on this appropriation bill are not trying to kill the nuclear waste program. We are not trying to say that there should not be a nuclear waste program. All we are saying is that there should be a fair approach to nuclear waste.

I want to spend a little time this morning discussing what I feel is the middle ground, what I feel is a fair approach to the nuclear waste problem.

The committee that has jurisdiction, rightfully, of this issue, nuclear waste, is the Environment and Public Works Committee. The Environment and Public Works Committee has legislation that deals with this subject. And it is the middle ground. It is the way we should go in this area. It is a middle ground between the Johnston proposal that is now the legislation that is inappropriately on an appropriation bill, and the 1982 Nuclear Waste Policy Act that we spent a lot of time discussing yesterday as to why it has caved in; why, as Chairman UDALL stated, it is time to start over again.

The Department of Energy has so approached the problem by not following the law, not following its own regulations, not following the scientific advice that it received, that now we must look at some other approach. That is why the legislation that we now have that has come from the Environment and Public Works Committee is in fact a good approach.

As you will recall, there was a lot of talk yesterday about the 1982 act and some of its basic concepts. What the Environment and Public Works Committee has done is tried to take the best that we have out of everything that is floating around here; again, I repeat, the so-called middle ground.

Mr. President, I will talk a little bit about some of the key points of this legislation. First of all, the Department of Energy must develop surface testing plans for the three sites. This is important. This is what the Nuclear Regulatory Commission stated in their testimony last week before the Environment and Public Works Committee, saying this is the way to go. Let us do some surface testing before we go ahead and dig these deep holes into the ground. Surface testing will alleviate a lot of the guesswork.

And, of course, the thing that the Nuclear Regulatory Commission is concerned about is, if, in fact, you do not follow this approach here, you are going to wind up with a big hole in the ground, and they are going to have tremendous pressure placed on them to license that one facility. Why? Because there will have been hundreds of millions, if not several billions, of dollars spent on that one site and the pressure would be unbelievable to say, "Well, you can't license that." And even if they decided not to license it, the program would be set back even further because you would have to start all over again. That is why there must be some surface testing.

It is important, Mr. President, that surface testing be completed before selecting a preferred site. And it is obvious why that is important. There are some who are saying that you could do the surface testing after selecting the preferred site. In fact, that is one of the things that the chairman of the Subcommittee on Energy and Water has tried to do. In fact, he placed an alteration on the previous amendment by saying that surface testing could take place after the preferred site was selected.

Well, that really does not answer the question. The question is: Should the surface testing be done first? So you do the real characterization at the preferred site. There should not be a shaft dug until the preferred site is selected.

And when we are talking about a shaft, this is not like drilling an oil well or a water well. This is a huge hole in the ground that will have room for railroad cars. It will have room for hauling huge quantities of material up and down this vertical shaft and then after the vertical shaft is put in place, there will be drifts or tunnels placed at various angles in this shaft.

Simply, as the Environment and Public Works Committee said, is it not important that we do the surface testing before the shaft is done? And, of course, it is reasonable and logical and it will save the Government a lot of money.

Also, Mr. President, the Environment and Public Works Committee also is not saying we are going to just do away with the nuclear waste activities of this country; we are trying to sweep it under the rug; we are going to try to have Congress forget about it. That is not the case. That is not the case at all.

By January 1, 1991, the selection must be made—1991. In just a few weeks, we are going to be in 1988. So we are talking about a 2-year period—that is all—a 2-year period to do the surface testing, and by then make the site selection.

That, as you can see, tracks with what we have here. it is a middle ground. The matter that is now before the Senate is not a middle ground. It forces the DOE to pick a site and pick a site very quickly; in fact, to pick it by the end of next year, to pick it in a few months.

It also talks about the Department of Energy developing a decision methodology for selecting the site. This is based on current siting guidelines. All the Environment and Public Works Committee said is we will follow the current siting guidelines you have. We did not do it the first time but we will do it the second time; and that DOE must issue a comprehensive explanation of its decision.

There was a lot of conversation yesterday, Mr. President, about the Department of Energy not being able to supply information, to supply working papers, to justify some of its multibillion-dollar decisions and that is something that is important.

Again, I stress this is a middle ground. It is a reasonable way to go. It sets the target date of 2 years that there must be a site selection made. It does not put it off forever. But it gives people that work at the Department of Energy enough time to do what is appropriate.

Also, it calls for future judicial review and it is under an expedited procedure. But it is not a kangaroo court.

There is a record for judicial review. It allows the real courts to be involved in the program.

Also, there is some satisfactory handling of the pending litigation. The NEPA generally applies. Not verbatim but it generally applies. Again, a middle ground. Again, to show that the Environment and Public Works Committee was reasonable, the Environment and Public Works Committee felt it appropriate to do away with the second-round repository site. The reason they did it is because of convenience; because we have to get the first site underway first before we go to the second-round States.

I serve on the Environment and Public Works Committee. I did not agree with this provision. I did not think they should do away with the second-round sites. But in an effort of compromise, that was the position reached and so we follow the Environment and Public Works Committee.

Myself and others will have to go along with this middle-ground, middle-of-the-road approach.

The National Science Foundation, National Academy of Sciences—they have an oversight board. I think it is interesting to note that, in the alteration of the chairman's amendment today, there is some approach toward this and I think that is a step in the right direction.

Under the Environment and Public Works Committee, the MRS selection procedures are implemented, but there are significant safeguards. And there are no incentives, which all States can live with. We want this to be done on its merits. I think, being realistic, talking about these incentives, with all the crunches we have with money in this Congress, in this country, I think everyone is going to recognize it is going to be very hard to have the $100 million in perpetuity that is in effect in the amendment that is before this body. In fact, it is $100 million for the permanent repository; it is $50 million a year for the MRS. That is $150 million a year, and this bill does not have it because, realistically, I think we all agree it just simply will not happen.

(Mr. FOWLER assumed the chair.)

Mr. REID. I will not spend a lot of time talking about the Johnston matter, which is in effect the bill that is before the body now, but to point out some of the things that I think are worth pointing out. The important thing is we spent a long time yesterday talking about some of the DOE's violations and we are going to talk about some more of that today. We are going to talk about some of the past violations of the Department of Energy. But under this legislation that is now before this body, the Department of Energy is rewarded for their inactions and their violations of the 1982 act. They ratify everything they have done.

We talk about this bill that limits judicial review, sets up the so-called kangaroo court. Yet it shifts to a single site characterization, totally in opposition to the testimony that nearly everyone has given, including as late as last week the Nuclear Regulatory Commission saying that was not the right thing to do.

So, without belaboring the point, Mr. President, the Environment and Public Works Committee is a middle ground, it is a halfway, it is a reasonable approach. I would recommend to the Members of this body that they should look at this and should understand that those of us that are opposing the amendment on the floor this day as we did yesterday are not trying to put in the garbage can nuclear waste siting for a repository. That is not what we are doing. We are trying to do something that for all States would be fair and reasonable and that in good conscience could be voted for.

I must withhold until I go over to my desk, away from these charts.

Mr. President, I indicated yesterday that I would spend some time today talking about the transportation of nuclear wastes and I do want to do that because a safe, reliable system for transporting nuclear waste is crucial to any nuclear waste management program. Although wastes have been shipped since the beginning of this country's nuclear program, most wastes that have been shipped, we must understand, are low-level wastes.

Mr. President, I talked about a lot of things the State of Nevada has done for this country, and we have done it gladly. I talked about the Nevada test facility I talked about the Nellis Air Force Base, Indian Springs Air Force Base, Fallon Naval Air Force Station, the Hawthorne Ammunition Depot.

Another thing I did not talk about is that we have been one of the three sites in this country for low-level nuclear waste for many years. We have handled, again, the waste from all over this country, along with the States of South Carolina and Washington. We are just chock full of low-level nuclear waste. But low-level nuclear waste, as concerning as it is to be hauled across this country, it is low-level nuclear waste. There is a tremendous difference between low-level nuclear waste and high-level nuclear waste. One is extremely dangerous, as was indicated yesterday; the most dangerous substance, the most dangerous poison that we have on Earth today.

Since the beginning of this country's nuclear program, what we have transported principally has been low-level waste. The high-level waste has stayed at the site where it has been developed, with rare exception. When a permanent repository opens, and of course a monitored retrieval storage facility as well, the quantity of spent fuel in shipment will increase and for the first time high-level waste will be moved around this country.

Aware of these facts, many State and local governments and citizens have become increasingly concerned about the safety of radioactive waste shipments. They want to have some control over what is shipped through their boundaries, when it is shipped, and how it is shipped and how it is packaged.

Furthermore, there are conflicts between the U.S. Department of Transportation and some States and local agencies over Federal preemption of State and local routing regulations. Two Federal agencies, the Department of Transportation and the Nuclear Regulatory Commission share responsibilities to develop, regulate, and enforce safety standards to ensure safe transport of radioactive waste.

The Department of Transportation, under the Hazardous Materials Transportation Act of 1975, has the authority to establish standards on any safety aspect of the transport of hazardous—and this, of course, includes radioactive—material, by any mode in interstate and foreign commerce.

The NRC, under the Atomic Energy Act of 1954, that is the Nuclear Regulatory Commission, has the authority to regulate "the receipt, possession, use, and transfer of radioactive materials."

So, to avoid possible conflicts and overlap in their regulations, the Department of Transportation and the Nuclear Regulatory Commission have agreed on their respective responsibility. They, in effect, have an interagency agreement.

In general, the Department of Transportation has the responsibility for packaging and shipping standards for certain low-level radioactive materials and for general labeling, handling, placarding, loading, and unloading requirements.

It also regulates the qualification for carrier personnel.

The NRC sets standards for packaging and regulating the shipment and security of containment of certain higher concentrations of radioactive materials, including large quantities, special nuclear materials, and spent nuclear fuel shipments to and from commercial nuclear powerplants.

Under the provisions of the Nuclear Waste Policy Act of 1982, all shipments of commercial high-level waste and spent fuel to Federal facilities, the repository or monitored retrievable storage system, or research center, are the responsibility of the Department of Energy, Office of Civilian Radioactive Waste Management. These shipments must comply with the Department of Transportation regulations.

In addition, DOE has formally agreed to transport commercial spent fuel and high-level wastes in certified shipping casks.

Finally, DOE is required by law to enter into contracts with producers of high-level waste and spent fuel to take title to the waste when it is being shipped to a Federal repository.

These contracts, negotiated in 1984, include provisions that cover transportation from the reactor to the repository or to a federally owned and operated interim facility, such as an MRS facility. All costs are to be borne by the users of nuclear-generated electricity.

PACKAGING

The packaging design for transportation of nuclear waste is the primary insurance against the release of radioactive contents during shipment. DOT and NRC packaging and contaminant standards are based on first, the degree of hazard posed by specific radionuclides to be shipped; second, the quantity of radionuclides—greater quantities require more protective

packaging; and third, the form of the radioactive materials—most are solid, but liquid and gaseous materials are also shipped. Current DOT and NRC regulations specify four different types of packaging:

Strong tight containers, in addition to being highly durable, must have a tight seal and act as a shield to prevent exposure to handlers and drivers.

Type A packages must meet the requirements for strong, tight containers and in addition be capable of preventing spills and leaks under normal driving conditions. The bulk of low-level radioactive waste is shipped by truck in these two kinds of packages.

Type B packages are designed for radioactive materials with a higher curie content. They must meet all type A standards and be able to withstand a severe accident without the loss of shielding or the release of radioactive materials.

Special shipping casks for spent fuel are even more elaborate and rugged. Solidified high-level waste will be shipped in similar heavily shielded casks, which are still in the conceptual design stage.

That is important to point out. They still are conceptually not certain how they should be developed.

These casks for shipping spent fuel generally consist of a stainless steel cylinder with a heavy metal shield, enclosed in a steel shell. The casks are designed to withstand a sequence of hypothetical tests that encompass a range of very severe accident conditions, including impact, puncture, fire, and immersion in water without releasing more than a specified small amount of radioactive material. It should be noted that analytical methods, rather than actual field tests on sample casks, are used to assess the ability of a cask design to pass these tests.

I think the reason that is important is, again, we are going on theory, not practicality. That is similar to the environmental explosions of atomic weapons. In theory, at the time they did not feel there was any problem with people watching and standing downwind from them. But, in fact, that was not the case. In fact, it did harm people.

To date, most accidents in leakages in tranist have involved low-level waste and fortunately we have not had any deaths that relate to leakages in transit. But, of course, they have only dealt with low-level waste.

In fact, compared to transport of other hazardous materials, radioactive shipments, and, again, this is low level, have been fairly safe.

The interesting thing about hauling this poison across our highways and byways is how it is going to be routed.

The route of a radioactive material shipment depends on the type of material in the shipment, its size, the distance it must travel, and Federal, State, and local regulations.

Mr. President, I would hope that my colleagues appreciate that this poison is so dangerous that the routes selected depend on the type of material in the shipment, not only what material it is but how large the quantity is, the distance it must travel, and they are even concerned about some of the local regulations.

The U.S. Department of Transportation issued two sets of routing regulations in 1981 for highway carriers of radioactive materials. First, there is a general set of regulations governing the radioactive shipments of radiopharmaceuticals, industrial isotopes, and low-level wastes which, if properly packaged, are considered to present relatively minimal risks compared to other hazardous materials such as gasoline. These regulations allow carriers to use their own discretion in selecting routes. The second set of routing rules, which applies to motor vehicles transporting large quantities of radioactive materials, is more stringent. Carriers are required to use interstate highways as preferred routes, to avoid urban centers by using by-passes and beltways when available, to avoid travel during rush hours, and to avoid local hazards such as roads and bridges under construction or repair.

Why would they want to avoid urban centers if these things are safe as some would tell you? They want to avoid urban centers so there will be no accidents because these containers, these casks, contain materials that are dangerous.

Furthermore, drivers must have special driver training certification and be notified that they are carrying radioactive materials.

Many State and local governments have established their own rules, specifying such things as prenotification requirements, time-of-day restrictions, routes, and special equipment. The most recent example is the April 1985 ordinance enacted by the Denver City Council. In addition to many of the above requirements, the Denver law levies a fee on hazardous and radioactive waste shipments within the city. The fees will be used to underwrite costs of administration and emergency response.

Some State and local governments have adopted bans on the transport of nuclear waste through their jurisdictions. In 1976 New York City authorities banned shipments of large quantities of radioactive materials and spent nuclear fuel through the city. When the Department of Transportation issued its 1981 regulations allowing preemption, that is overriding of local restrictions, the city of New York immediately sued to block the regulations. A Federal district court sided with New York City in a very narrowly written ruling, agreeing that, in the case of New York City, DOT's environmental appraisal and assumptions about a "worst case scenario" were inadequate.

The U.S. Circuit Court of Appeals then heard this case and they overturned the decision, leaving the Department of Transportation regulations intact. The decision upholds the authority of Federal regulation, but allows State and local governments to petition DOT for waiver of the regulations.

If we have time in the next little bit, Mr. President, we are going to go look at some of these transportation routes. We are going to look at these different highways and byways because under the present state of the law States and local governments are not going to be able to pass any laws that will override the Department of Transportation. The Department of Transportation, according to the U.S. Circuit Court of Appeals, in effect said the Department of Transportation can do anyting it wants with nuclear waste through your towns and cities.

The Department of Transportation asserts that State and local rules are in many cases conflicting and that they restrict interstate commerce.

Now, remember the interstate commerce we are restricting. We are restricting the hauling of high-level nuclear wastes, nuclear poisons, that have been placed in these casks that are designed to prevent the materials from leaking.

State agencies may designate alternative preferred routes. It does not mean they will take those, but agencies may designate alternative preferred routes under the transportation routing rule, but the agency maintains that State and local regulations that unnecessarily burden, delay, or ban shipments will be preempted under the Hazardous Materials Transportation Act. It seems likely that this controversy, pitting the rights of States and local authorities against the Federal Government, will continue to be aired in the courts.

We also have a problem that I think we should talk about a little bit, and that is the liability coverage for accidents. The 1982 Nuclear Waste Policy Act, of course, heightened concern not only about the increased shipments of radioactive wastes, high-level radioactive wastes but also what would happen if there were an accident in the carriage of high-level nuclear waste. What about the adequacy of the liability coverage for such shipments. So currently the liability for a nuclear accident, whether occurring at a nuclear plant, a Department of Energy facility, or along the transportation route, is determined by the provisions of the Price-Anderson Act. This amendment to the 1954 Atomic Energy Act had two purposes. First, to

ensure compensation for the public in the case of a nuclear accident and to protect the nuclear industry from a potential accident liability so large it would threaten the future of nuclear power.

This was first passed 3 years after the Atomic Energy Act in 1957 and renewed for 10 years in 1966 and again in 1975. The problem with this, Mr. President, is that the Price-Anderson Act expired this past summer, in August. So there, in effect, really is no protection from accidents if, in fact, they did happen. What Price-Anderson was set up to do was to provide a two-tier "no-fault" system of insurance. We need to get that back on track. That certainly is something we should be talking about. It is worth the time of this body to talk about a bill of substance, Price-Anderson, not to have on an appropriation bill a piece of legislation.

Again, Mr. President, I would like to withhold until I walk over to the easels.

Mr. President, what we have here in these charts are, of course, pictures of the United States. And on the first chart we have the projected annual spent fuel shipments to a Western storage site right after the turn of this century, using rail and all others using truck, and this is for demonstration purposes only.

I think it is important to note that where we are talking about the very, very large number of shipments, that is, 1,200—here—you see these areas that will be traversed with nuclear waste. Let us talk about some of the places. This is not a problem that deals with the State of Washington, the State of Nevada, and/or the State of Texas. It deals with most of this country. These are States that are affected, and it is easy to see which States they are. Of course, Salt Lake City, UT—huge amounts. Salt Lake was known in the early days as the crossroads of the West—crossroads of the West. Well, it will be the crossroads of nuclear waste. The crossroads of the West will be the crossroads of nuclear waste. Shipments of nuclear waste will be coming through here like gangbusters. Look at that large black line. Twelve hundred is this big. It is larger than that.

So Salt Lake City certainly is the crossroads of the West, but it will be for nuclear waste.

Traveling east, we go to the great State of Colorado, and I am only talking about the major cities that will be concerned and should be concerned about shipments of these hundreds and thousands of tons of nuclear waste. Denver, CO, the mile high city. It may not be so high when it is loaded down with nuclear waste or in fact if something goes wrong there. The people of Colorado have been very environmentally conscious. Some have said it is the most environmentally conscious State in the United States, for a lot of reasons. They share the great Rocky Mountains. I have been advised that one of my colleagues would like the floor. I would be willing to yield to my friend from Alaska under the condition that this not in any way interfere with, take away from, or be my second time speaking on this amendment.

The PRESIDING OFFICER. If there is no objection, the Senator from Alaska [Mr. MURKOWSKI] is recognized.

Mr. MURKOWSKI. I thank my friend from Nevada. I am very appreciative of his allowing me this opportunity to make a statement. I shall be happy to yield the floor back to him on my conclusion.

BUDGET DEFICITS

Mr. MURKOWSKI. Mr. President, for the last several days I have been drawing the attention of this body to the precarious fiscal situation of our Nation today, a situation that has been created over some 20 years. We have seen huge rising deficits, from $147 billion to $180 billion in the next year alone, an ever-mounting debt which increased as much as fourfold over the past 7 years. Interest on the debt as a percentage of Federal spending and GNP has doubled over the same period.

Now, when we reflect on the current accumulated debt in this Nation, we are faced with the stark reality that it is somewhere in the area of $2.3 trillion.

I came to the Senate, as I have indicated, in 1981. I had an opportunity to attend a budget meeting. At that time the total debt of this Nation was $757 billion, Mr. President. That has stuck in my mind because I happened to need a padlock that day and went out and bought a padlock. Rather than buy one with a key, I bought one with a combination. I was wondering at what to set the combination that would be easy to remember. I had been startled at the magnitude of that accumulated debt, $757 billion. Well, every time I use that padlock, the reality that now it is over $2.3 trillion I think says enough.

I think it says enough. It is obvious I cannot get a padlock with that many numbers. But the reference of the rate of growth of that debt certainly hits this Senator every time he uses that padlock.

We are seeing within the area of our gross national product a dip below 3 percent in 1988, but the thing that strikes me most significantly, Mr. President, is the dwindling savings in this Nation for capital growth. It is at its lowest point in 40 years with excessively high interest rates, long-term rates currently at 9 percent, and up from 7.1 percent since January. We have seen a reduction as a consequence of the Black Monday. We have a very nervous stock market. In a recent single day there was a 20-percent drop in Wall Street's equity value. What that means on paper is that it is substantial to those who value their net worth in stocks at a given time. The $23 billion in deficit savings discussed currently is not enough, Mr. President. With the present Gramm-Rudman-Hollings deficit reduction law, although somewhat flawed, even if the summit negotiators can get $23 billion in deficit savings to avoid sequestration, we will still have more spending than ever with no real deficit reduction, and we will still continue to have uncontrolled debt.

Mr. President, we cannot overreact. I am not suggesting that. It is too serious and too fast of a deficit reduction. Tax increases could retard the growth of our Nation and likewise spending cuts could push those on the edge over the brink. But make no mistake about it, Mr. President. It is a relatively simple matter. You do one of two things. You either increase revenues or you decrease spending. There is no other alternative.

What is needed is a long-term correction in U.S. fiscal policy, and that must be one that encourages savings. Savings are significant. We cannot do it with tax increases. We cannot do it with spending cuts. The initiative of the public to have an incentive to save is paramount. We all know savings stimulate growth, stabilize debt, and can help firm up Wall Street and cut the deficit. And savings in this country are at the lowest point in 40 years. Currently savings, as a percent of disposable income, has steadily shrunk from 6.8 percent in 1982 to just 3 percent in the last quarter of 1987. Savings are critical for the long-term health of our economy. Make no mistake about it.

Savings help keep interest rates down at a reasonable level. They make capital affordable. This opens doors to opportunities, it lowers the debt cost, increases jobs, increases growth for business and inventories, and of course, the broad base is that it increases tax revenues to the Federal Government and lowers borrowing costs of our Government to help stabilize the debt and pay for the deficit.

Mr. President, you get interest rates down through savings. And low interest rates really built America. Make no mistake about it—from our railroads, our farms, our homes, to our universities. And the interesting thing that we have to reflect on is our current system. Let us examine it for a moment.

The current system encourages spending. It encourages the accumulation of debt. It does not encourage sav-

ings. It even penalizes savings. Let me explain that, Mr. President. Interest on debt is deductible. Is that not a substantial incentive for further debt? And what do we do with interest on savings? We tax it. If that is not backwards, I do not know what is. The objective is to provide the incentive for savings. So incentives to save, to work, not spend, requires a fundamental rethinking of our policies, and our country's fiscal economic policies. I think it is time, Mr. President, for some initiative, some bold ideas, some new approaches because what we are doing is we are continuing even in the economic summit to vacillate over policies that simply are not addressing reality because they leave us with the dilemma of no other alternative but to increase revenues or decrease spending. And you increase revenues quickly by increasing taxes and where do you get those revenues? You get them from the individual, the consumers, the businesses of this country which have less to reinvest in the system, and then we tax their savings and away we go.

There are a lot of ideas around. And I think we should champion some of those ideas on the basis of some long-term solutions. It has been suggested that maybe instead of the personal income tax that we have learned to almost accept as part of our heritage that some other type of taxation may have merit.

It has been suggested that the value-added tax be examined. In a series of speeches that I intend to make before this body, I intend to address in each one various alternatives. Let us start with the value-added tax and ask a few questions about what it does.

Maybe in the area of asking whether it would offer an incentive to savings we find that there are significant advantages in the sense that a value-added tax is a flat-rate tax on services throughout production, distribution of consumer goods, and on business inventories. It does not tax savings. It taxes after you spend the savings, but you have the choice, Mr. President, of whether you want to make the expenditure or not. But you do not get taxed theoretically on a value-added tax on your interest or your return on your investment or your investment in the New York Stock Exchange or any other investment. You get taxed when you make a purchase.

As we look at alternatives, we are looking at alternatives to the current system, whether it be the Federal income tax system or something else that would come up. So make no mistake about it. I am not suggesting an additional tax. I am talking about whether there is a better, more equitable, fairer way, and perhaps the value-added tax deserves some consideration. We have seen its application in other countries. It is broad based. It can yield substantial revenues at low rates, and let us look at a 5-percent value-added tax and estimate what it might produce.

The figures provided indicate that a 5 percent value-added tax could produce about $100 billion in revenue. Value-added tax revenues, of course, as I stated, would have to end the personal income tax. They have the flexibility of substantially reducing the deficit. If we take an 18 percent value-added tax, we can end the personal income tax and add a 5 percent value-added tax, and we can go in and cut the deficit by two-thirds. It is a rather interesting reflection. To offset regressive features of the value-added tax, there has been examination of the necessity of eliminating the tax on the food, clothing, medicine, heating oils, and various other necessities of life. That is appropriate.

A 15-percent application would cut personal income taxes in half, and the deficit by approximately seven-eighths in 1 year.

Make no mistake about it, a value-added tax, as other proposals, is not without difficulty: regressive, unfamiliar, tax enforcement costs, time of implementation, vendor compliance. These are all difficulties. But with some fine-tuning, is this an alternative to the present system? The system simply is not working, because it takes the basic incentive away, and that incentive is to save.

I repeat that in this country we penalize those who save by taxing their savings, and for the debt we incur, what do we do? We give tax forgiveness.

That basic premise, that basic policy, is grounds for a complete review of our system, a complete policy change, based on the situation where we are today, with $2.3 billion of debt, with the interest on that debt taking some 16 cents to 18 cents out of every dollar on interest. As I said before, it is like owning a horse that eats while you sleep. It does not provide one job, one program, one social benefit. It just continues to eat, like a cancer, more and more. We are not addressing it.

If we could address the accumulated debt and reduce the interest, we would have more money for social programs, we would have more money for the things we need in this country.

So, as we debate the merits of what to do about our economic crisis, I think it is appropriate that we look at a value-added tax to replace the personal income tax as an alternative. It would certainly be attractive to the individual who, instead of having 20 percent to 25 percent of his salary withheld every month, would have 25 percent more disposable income; but he would have a choice, to take that disposable income and spend it or save it. If he saved it or invested it, he would not be penalized on it.

This is the type of thinking that is appropriate for this body to begin to reflect on: the merits of looking at alternatives that will correct the situation, correct the accumulation of our debt, and address our deficits.

Mr. President, I conclude my remarks today with the thought that I will be back addressing other potential alternatives, other major policy changes that should be considered at this time. I may propose legislation. The legislation that I am inclined to support at this time, very frankly, is an across-the-board freeze on all COLA's for the balance of this current fiscal year. That addresses the problem immediately. It does not take care of the outyears. So, what do we do about the outyears?

I have been around here long enough to know that this is not the only fountain of wisdom, that this is not the only place where concrete ideas come from, the changes in the policy of this Nation that redirect the economic direction. There are a lot of competent people in the private sector who should be heard from.

We have seen Presidential commissions proposed from time to time. Perhaps this is an alternative that could meld in as we reflect on the proposal of across-the-board COLA freeze, where potentially we would pick up some $12 billion or thereabouts, and then use that time to propose a commission of our noted economists to come in with some advice to the Congress of the United States on alternatives.

It would do two things. It would do something in the meantime, while the meantime is here today. We are still debating at the economic summit level the merits of what to do. Should it be a combination? Should it be a Democratic plan? Should it be a Republican plan? Or should we just talk a little bit more about it while the Nation waits for leadership?

One of the advantages of an across-the-board freeze is that we are doing something now. We have 8 months left. We have a crisis. Then we have time to make some judgments based on the input of the wisest counsel that these bodies in Congress can possibly bring into the policymaking system.

So that is some preview of what the contribution of the junior Senator from Alaska is on this subject.

I have been a commercial banker in Alaska virtually all my life and I am very concerned. I do not believe that jawboning or partisanship is going to be the answer. I am not blaming one party or the other. The fact remains that we have a crisis now, and we are reflecting on the crisis; but we are not reflecting on it, in my opinion, in an adequate manner, in addressing needed policy changes that will have to be dramatic enough to turn the di-

rection around. I think we all agree that it has to be done and has to be done now.

I yield back to my good friend, the Senator from Nevada. I thank him for the opportunity to address my colleagues during the time he was carrying on his important dialog on nuclear waste.

I am very sympathetic to his concern and his cause, and I wish him well.

The PRESIDING OFFICER. The Senator from Nevada [Mr. REID] retains the floor.

ENERGY AND WATER DEVELOPMENT APPROPRIATION ACT, 1988

The Senate continued with the consideration of the bill (H.R. 2700).

Mr. REID. Mr. President, at the time of the break in the proceedings regarding nuclear waste, I was talking about transportation.

Returning to this illustration we have here, it is a map of the United States. On the map are the major rail and highway routes that would be used, according to the National Academy of Sciences, for hauling high-level nuclear waste. We proceeded to talk a little about some of the major cities through which nuclear waste would travel.

We talked about Salt Lake City, which is only one part of Utah that is going to be affected with nuclear waste. As can be seen from this map, not only is Salt Lake going to be affected, but also other cities in the State of Utah. Salt Lake is in the northern part of the State. There would be much nuclear waste coming down through some of the most rapidly growing areas in the country.

In the southern part of the State of Utah are the cities of Cedar City and St. George, and huge amounts of nuclear waste would be transported through these cities.

St. George is a tourist community now. According to studies put out, it is 1 of the 10 best places to retire, so it is growing very rapidly. They have numerous golf courses and tennis complexes, and a major highway and a railroad goes into general vicinity. The highway, of course, goes right through the city.

So it is a concern that should be to the people of the State of Utah.

I talked about Denver, CO. What I did not talk about and I should have talked about was Wyoming. Cheyenne, WY, is one of the areas where nuclear waste would be transported in large quantities. Cheyenne, WY, is a great city. I spent a lot of time there in the courts of the State of Wyoming, the courts in Cheyenne. I had a criminal case that I handled there. I traveled there a number of times from my home in Las Vegas. And it is a major thoroughfare, a major transportation route and, of course, nuclear waste would travel through that area.

I was happy to see Senator SIMPSON who served on the Environment and Public Works Committee being one of the major proponents of the middle ground, the ground that I have adopted, that is a midpoint between the Johnston proposal that is now before this body and the old outdated and ruined by the Department of Energy proposal of the 1982 Nuclear Waste Policy Act.

So, of course, my friend from Wyoming, Senator SIMPSON, understands the danger of transporting high-level nuclear waste through that community.

We talked about Denver, CO, and the significance of hauling with truck and rail through the State of Colorado, and I am suggesting, Mr. President, as you can see from these small lines here, which gets up to 1,200 shipments, why it would be more than that. It would be a significant amount of high-level nuclear waste that would be traveling through these areas.

We are going to talk about Lincoln, NE. Lincoln, NE, is an area, of course, that there is a lot of travel through.

I can remember, Mr. President, when I graduated from law school back here in Washington, DC, many years ago and traveling from here with my small family one of the places we stopped was Lincoln, NE. The reason we stopped in Lincoln, NE, is that we had a problem with bringing all of our wordly possessions. At the time they were on the top of a little station wagon that I had and had a luggage rack on the top of that, and we stopped in Lincoln, NE, to have that tarp repaired.

We stopped in Lincoln, NE, because it was on a major highway. I think it was Route 70. I am not certain. Route 30 or 70, but it was on a major thoroughfare, major highway, major freeway system. And they are going to be hauling nuclear waste along the same routes people like me traveled with my small family. They will be passing a nuclear waste truck.

Omaha, NE, is also on the roadways of nuclear waste. Des Moines, IA; Rockford, IL; Chicago, IL. Chicago, IL, one of the largest cities in the United States, one of the largest cities in the world. I bet the people of the city of Chicago would be interested to know that they are on the map, they are on the map because we are going to haul in trucks high-level nuclear waste through the city of Chicago. Not only will we haul by truck, we will put railroad cars with high-level nuclear wastes on them to be hauled through that very large city.

Gary, IN; South Bend and Elkhart, IN; Fort Wayne, IN; Akron and Cleveland, in Ohio; Erie, PA; Buffalo, NY. Buffalo, NY, knows something about nuclear waste because just a short distance outside Buffalo, NY, is West Valley; West Valley, NY, a place where they have already nuclear waste. It is on the ground. They are trying to figure a way to get rid of it. They have been trying to get rid of it for years and years. They have not been able to get rid of it. A very large cleanup project is there taking place. It is a concern because some of the nuclear waste they believe has traveled into Lake Erie, one of the Great Lakes.

So Buffalo, NY, I am sure, would be interested to know that not only will they have to continue dealing with West Valley, they will have to start dealing with nuclear waste that will be hauled by rail and by truck at or near Buffalo, NY.

There is Rochester, NY, and then, of course, we drop down to one of the lower more southerly routes and find Topeka, KS, as a place that will transport nuclear waste. Kansas City, MO, and Kansas City, KS, one of the very, very large metropolitan areas in the country. I am sure the city fathers there would be interested to know that they are on the map again for being a route through which nuclear waste will be carried.

St. Louis, MO—St. Louis, MO, had a reputation earlier on similar to Salt Lake City. It was a crossroads area. To get anyplace you had to go through St. Louis, partly because of the great Mississippi River. But St. Louis now again is on the crossroads because that will be one of the major routes through which nuclear waste will be carried.

Indianapolis, IN; Columbus, OH; Cincinnati, OH; Pittsburgh, PA; Philadelphia, PA, the city of brotherly love, the place where we traveled on July 16 to commemorate the 200th anniversary of the Great Compromise. It will be a place that will be a transportation route for high-level nuclear waste by truck and by rail.

Boston, MA; New York, NY; Baltimore, MD; Washington, DC; Norfolk, VA; and as we pointed out before, there is no need for Topeka, Baltimore, Philadelphia, to try to pass an ordinance or a law that would prevent or restrict or help you pay for any accidents that may occur as a result of nuclear waste or to pay for enforcing the law. You cannot do that. The courts have said you cannot. The Department of Transportation prevailed.

Mr. President, I would at this time yield under the condition that the next time I assume the floor it would not be considered a second speech.

I am happy to yield to my friend from the State of Washington who is so knowledgeable in this area.

Mr. ADAMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ADAMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GRAHAM). Without objection, it is so ordered.

The Senator from North Carolina.

Mr. SANFORD. Mr. President, our high-level Nuclear Waste Program needs to be put back on track. Many Senators and Members have spent a good deal of time investigating problems experienced by the Department of Energy, and putting together legislation designed to improve the situation. The distinguished chairman of the Energy Committee, the Senator from Louisiana, and the ranking minority member, the distinguished Senator from Idaho, have clearly made great efforts to redirect the program, and I commend these Senators for their diligence and leadership.

I do not think that anyone in this body would dispute the fact that there are serious problems in our high-level waste program at present. I do not think that these problems necessarily reflect any major flaws in the Nuclear Waste Policy Act of 1982. But it is clear that significant redirection is necessary, and I think we all agree on that. However, redirecting the program in such a manner as to maximize public confidence and safety while meeting our obligations to the generators of nuclear waste is an extraordinarily complex task.

I would like to address some specifics about the problems that have occurred in the implementation of the Nuclear Waste Policy Act, and then make some comments on the choices that we face, and some of the specific concerns that I would ask my colleagues to reflect upon.

Mr. President, the Department of Energy has experienced myriad difficulties almost from the start in implementing the NWPA. The DOE has been accused of failing to properly consult and cooperate with officials of affected States and Indian tribes. They have come under fire for underestimating safety concerns at a number of sites, in both the East and the West.

The DOE's siting guidelines have been widely criticized. Environmental assessments for the three western finalist sites have created many problems. The tortuous logic used by the Department to select these three sites, in fact, has raised many eyebrows, and the ugly shadow of politics has been cast over what ought to be pure technical decisions in some cases.

The proposed monitored retrievable storage facility has been extremely controversial. The DOE's assumptions about the MRS have been called into question by such reputable organizations as the General Accounting Office and the Office of Technology Assessment. The State of Tennessee, our close neighbor, has raised many valid concerns about the MRS that I do not believe have been adequately addressed. And even high-ranking utility officials have expressed considerable skepticism about the MRS proposal. In particular, criticisms about DOE's cost assumptions and lack of consideration of realistic alternative systems have been right on target.

Even the Department's surprising decision to halt work on the Eastern Repository Program last year raises interesting questions, to say the least. The problem was certainly not with the merits of that decision, since DOE forecasts of waste volumes clearly show that more than one permanent repository will not be necessary until well into the next century. With the current budgetary situation, it does not make sense to be wasting billions of dollars on a facility that we don't need any time in the foreseeable future.

Mr. President, the surprise was that the DOE reversed its previous position and took a quite logical, if controversial, step. The problem was when the DOE suddenly saw the light. It is quite interesting that, although DOE had the necessary information to make this decision well in advance, they waited until the middle of the 1986 campaign season to share it with us.

So the DOE's program has been under a cloud of suspicion almost from the start. The unfortunate result has been a mountain of litigation, well-founded concern from utilities about the use of the nuclear waste fund, and a complete and total loss of public confidence in the program. The DOE's credibility with the public is virtually nonexistent.

In my mind, the most important task that we have before us is to reestablish this essential public confidence to the greatest extent possible. People are afraid of nuclear waste, and rightly so. It is dangerous. It stays around for a long, long time. To residents of a host State for a repository, it will be an unwanted guest that came for dinner and would not leave for 10,000 years.

We have to face nuclear waste disposal in a rational manner. With proper safeguards, there is ample evidence to suggest that it can be stored safely for long periods of time. But how can we expect the public to believe this when, every time they turn around, some prominent citizen or scientist is blasting the DOE in the newspapers, pointing out yet another problem in the Nuclear Waste Program?

And just so we make no mistake, I am not suggesting there has been too much public involvement in the process. That is not the problem. If anything, the public should become more aware and more involved. The problem is that the DOE has not earned the public's trust. The problem is that the DOE has not been able to give the right answers to all the right questions. The problem is that what should be a purely technical, scientific decisionmaking process has become charged with politics.

Whatever action we take on this issue, I would respectfully ask my colleagues to consider well the impact of new legislation on the public's confidence in the program. We ought to be finding the safest site we can for disposal of high-level nuclear waste. That should be true whether the site is in our own backyard or whether it is 3,000 miles away. But the public does not believe the DOE when it says a site will be safe, let alone the safest site possible.

Mr. President, nuclear waste can be disposed of safely. Let us do our best to give the public a better reason to believe that. Let us make sure that future program decisions are made purely on the basis of the best available technical evidence. Let us remove, as much as we can, the ugly specter of politics from this process.

WHAT TO DO

The concerns I have discussed at some length led me, several months ago, to introduce legislation with a number of my colleagues to correct the DOE's program. My distinguished colleague, the senior Senator from Tennessee, was instrumental in putting together this legislation, as were my respected colleagues from Nevada and Washington. Our bill, S. 428, would have imposed an 18-month moratorium on the program. It would have set up a blue-ribbon panel to recommend solutions to the many difficult problems. It would have provided objective answers to the public's questions, and I think would have greatly boosted public confidence in the program.

I know that many of my colleagues were concerned that this legislation would unduly delay the program. They felt that it would be unfair to the utilities, who have been promised that spent fuel will be taken off their hands by 1998. They were concerned that a flurry of new litigation, responsible or otherwise, might result. And they did not want to see all the hard work that went into the Nuclear Waste Policy Act of 1982 unraveled.

While I believe that these concerns could have been addressed in a bill similar to S. 428, I recognize their legitimacy. These are important issues that must be dealt with responsibly. The Senator from Louisiana and the Senator from Idaho, I believe, have clearly addressed these concerns in their legislation, and I commend them for that. They have worked very hard to create a bill that would redirect the

program while allowing it to move ahead, to put this issue behind us.

Mr. President, I still believe that S. 428 has considerable merit. The House of Representatives seems to be embarking on a similar course, and we must all pay close attention to the pros and cons of that approach. But of course the bill at hand is H.R. 2700, and I would like to address this measure now.

The nuclear waste language in H.R. 2700 would allow the program to go ahead. It would allow us to meet our obligations to the utilities, and to dispose of defense wastes in a timely manner. It would prevent the destruction of the program.

This language also takes note of some important facts regarding the amounts of high-level wastes that must be disposed of. The bill recognizes that we simply will not need more than one permanent repository for many years. It recognizes that we have far more important things to do—such as reducing the deficit, for one—with billions of dollars than create an unnecessary eastern repository.

AN EASTERN SITE?

H.R. 2700 would eliminate the search for an eastern permanent repository at least until the year 2007. This is a very good idea. Even the DOE agrees. We simply do not have the need for an expensive, controversial, and extremely unpopular repository in the East right now.

Serious problems have been found with many of DOE's proposed candidate sites in the East. I cannot speak for sites in other Senators' States. I am sure that others can add their own findings. But in my State of North Carolina, it is hard to see how DOE came up with the sites they did.

Both sites are near major cities. One is near Asheville; the other a few miles from our State capital, Raleigh. The Asheville site is very close to a number of hot springs. The hot springs indicate that ground water is rapidly circulating to great depth, and returning to the surface. The ground water may contain corrosive minerals. This is not the place to put highly dangerous radioactive waste. You might as well keep it on the surface, because the gound water would bring it back to you very soon.

The Raleigh site is near 17 geologically young faults. This is not a stable geologic area. And the city is experiencing tremendous economic growth. The area under consideration for a repository is likely to become densely populated in the near future. And believe me when I tell you, as friendly as Tar Heels in Raleigh are, the DOE is one "good neighbor" they do not want to have.

I could go into more detail about eastern sites, Mr. President, but the point is that there are serious problems. There is clearly no need to walk into this particular minefield at present. We do not need to waste the money. I have been saying this for a long time, and I am very glad that the Senators from Louisiana and Idaho concur.

THE MRS

However, there is at least one portion of H.R. 2700 that I must strongly object to. That is the authorization of a monitored retrievable storage facility, or MRS. I recognize that an MRS would add flexibility to our nuclear waste system. It would certainly help us meet our 1998 deadline. But the questions are, is it necessary? Is it too expensive? And most importantly, will it be safe?

I have opposed the MRS for a long time. I do not believe it has been firmly established that we need one. I do not believe that DOE compares an MRS system to realistic alternatives. And I think the General Accounting Office was right to question the cost effectiveness of this option.

The sponsors of H.R. 2700 worked hard to put together a cost-effective program. They have achieved commendable budget savings through a number of means. But I am convinced that we could make the program even more cost effective without sacrificing safety, by deleting the MRS.

I also question the DOE's assertion that transportation will be minimized through use of the MRS. It simply does not make sense to ship wastes twice when you can ship them once. I recognize that efficiencies could be created through the use of dedicated trains, et cetera, but I certainly do not think the DOE has even come close to proving its case yet.

If we are to have more transportation, we will also have more transportation risks. I do not believe the DOE has satisfactorily addressed this issue, either.

Mr. President, many North Carolinians are aware that H.R. 2700 could lead to the placement of an MRS in our State. They have made it clear to me in no uncertain terms that they do not want an MRS. They do not want an MRS in Tennessee. They do not want one anywhere. And neither do I. Wherever would not make any sense.

The General Accounting Office this year recommended further study of the MRS proposal. I urge my colleagues to consider carefully whether we have the information we need to make a decision of this importance. I also submit that we may wish to consider the benefits of a contingency storage program. Under such a program, utilities could receive credit from the nuclear waste fund by creating safe temporary onsite storage facilities, for one alternative.

This program would provide utilities with a cost-effective option in the event of repository siting difficulties in the future. It could even be used in conjunction with an MRS if further study indicated an MRS was absolutely necessary. Several utilities are experimenting with this technology on their own, including North Carolina's Carolina Power & Light.

High-ranking officials at leading utilities have expressed skepticism about the MRS idea. The well-respected Adm. Stephen White, manager of nuclear power for the Tennessee Valley Authority, is among these. In an August 6 memorandum, Admiral White stated that the MRS proposal is not considered to be in TVA's best interest and therefore should not be supported. This memorandum has drawn widespread attention in the press lately, and I ask unanimous consent to have it printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. SANFORD. I would also like to draw the attention of my colleagues to several other issues relating to H.R. 2700, and would ask that they consider the following ideas.

First, I believe that we still need some kind of independent review of DOE's past program actions. This review need not delay the program, but I think the public deserves answers to many questions. Independent review would go a long way toward restoring confidence in the program.

I am no expert on the technical aspects of the program, but I have identified several technical provisions in DOE documents that give me pause. To name one example, DOE apparently considers proximity to a population center to be an asset for a site. Incredible as it may seem, DOE believes that having a city nearby will minimize socioeconomic impacts of the facility, and this consideration outweighs the threat to city dwellers posed by up to 70,000 metric tons of high-level nuclear waste.

Another interesting fact is that, in predicting the hazards posed by migrating radioactive substances, DOE apparently does not care where these substances reach the environment. As I understand it, all accessible environments are treated the same, whether they happen to be in a desert, a forest, or a major public drinking water supply. I would certainly think that these two examples would be difficult for the DOE to explain to the public.

Second, I believe we need some independent peer review of the program as it continues. Such oversight would encourage the DOE to be as conscientious as possible. It would help reassure the public that they can believe what they are told.

Third, I think we should carefully consider to what extent siting or characterization decisions should be sub-

ject to the National Environmental Policy Act. We may not wish to create unnecessary delays in the program, but we should make sure that well-established procedures to protect the environment are followed, and that reasonable alternatives to individual sites are considered.

Fourth, we should make sure that States' rights are not trampled on during the siting process. States should have meaningful input into the process, and they should have adequate rights to judicial review.

Fifth, we should make sure that all siting and characterization decisions should be made on the basis of adequate technical data. We must be able to defend the program against charges that decisions were made for political reasons.

And finally, I will return to the MRS proposal. I have stated my opposition to the MRS. I have stated my belief that we need more information about the facility. However, if at some future point Congress decides that we must have an MRS, we absolutely must make sure that the facility does what it is intended to do, and no more.

A great many people in North Carolina and other States fear, with some justification, that an MRS could become a de facto repository for all of the Nation's wastes. A brand new and fully functional MRS would be an easy target for expansion should we run into further difficulties at permanent sites.

The MRS, as currently proposed, would provide temporary storage and processing services for relatively small amounts of waste. It is not designed to hold unlimited quantities of high-level radio active material. That would not be a very safe way to go as a permanent solution.

If an MRS is ever approved, it should be strickly limited to handle only the amounts of waste that DOE has proposed. DOE wants to put 15,000 tons of waste in the facility, and we should not allow an MRS to ever handle more. If Congress wants an MRS—and I want to make it clear that I do not think it is a sound policy—then a tonnage ceiling and an acreage limitation, at a minimum, would be absolutely requisite for passing such authority.

Mr. President, I close by saying again that this is an extremely complicated issue. I personally do not think that an appropriations bill is the best place to put substantive authorizing legislation of this complex type, but that will be the decision of the Senate. I believe there are many positive aspects to H.R. 2700, and other aspects that require further consideration. I would hope that my colleagues will give careful thought to these points, and that we will ultimately pass a fair bill that, above all, will help restore public confidence in our program for the disposal of high-level nuclear waste. We need that kind of public confidence.

EXHIBIT 1

To: W.F. Willis, General Manager, E12 B16 C-K (7).
From: S.A. White, Manager of Nuclear Power, LF 6N 38A-C.
Date: August 6, 1987.
Subject: Edison Electric Institute (EEI) and American Public Power Association (APPA) Transmittals Regarding Nuclear Waste Policy Act (NWPA) Activities.

The following comments are provided in response to the June 22, July 2, and July 17 letters from Loring Mills, of EEI, and the July 9 memorandum from APPA regarding current legislation and activities related to NWPA. Detailed comments on specific items in the transmittals are attached.

The July 17 letter from Loring Mills requested guidance from all ACORD members on the approach the industry should take in regard to Senator Johnston's proposed bill S. 1481 and whether an all-out effort should be applied by the industry governmental affairs persons to seek its enactment. Mr. Mills requested that a recommendation be telephoned to him, along with a view on whether near-term follow-up by ACORD is needed. If Chairman Dean chooses to respond, we recommend the following.

An all-out effort to enact S. 1481 should not be supported at this time since it calls for a near status quo continuation of current program activities by the Department of Energy (DOE) without an independent program review and provides for authorization of the monitored retrievable storage (MRS) facility. TVA should instead continue to endorse the objectives of NWPA and support an overall NWPA program review which has a definitive scope and limited duration (as currently proposed in legislation by Senator Sasser and Representative Udall). This approach would be more appropriate in view of the very controversial status and acknowledged impasse that now exists in implementing NWPA. The program review would be used to develop constructive program modifications in order to reestablish consensus support and credibility and allow progress in NWPA. Legislation S. 1481 is a limited-scope initiative which will not provide complete and enduring solutions to the wide range of issues affecting NWPA. The current, extremely intense industry and congressional actions related to NWPA accurately reflect the very unsettled and fluid status of NWPA and the need for comprehensive initiatives such as the program review to get it back on track.

ATTACHMENT

Review of the June 22, July 2, and July 17 Edison Electric Institute (EEI) transmittals and the July 9 American Public Power Association (APPA) transmittal indicate the following points:

1. An impasse now exists in implementing the Nuclear Waste Policy Act (NWPA). This impasse will likely lead to a delay in the program since consensus support has been seriously eroded, and significant compromise is not evident. Two bills, each having substantial cosponsorship, have been proposed (one by Senator Sasser and one by Representative Udall) that would create independent commissions to review the current program and made recommendations to Congress. Under these proposals, all site-specific repository and monitored retrievable storage (MRS) activities would be suspended while the program review is conducted. Congressman Udall, as one of the main authors and one of the strongest supporters to date of NWPA, has stated that "DOE has handled the screening effort so badly that the public and many of us in Congress have lost faith in the integrity of the process."

2. EEI proposes that MRS be approved by Congress without the usage restrictions proposed by the Department of Energy (DOE). This would involve removal of the constraints put on operation of MRS by DOE in response to Oak Ridge area concerns. DOE proposes to specifically link operation of MRS to NRC licensing of the first repository and to limit the total capacity of MRS. NRC has also indicated opposition to the proposed linkage between operation and licensing.

3. The General Accounting Office (GAO) recommended in its June 1987 report, "Nuclear Waste—DOE Should Provide More Information on Monitored Retrievable Storage," that before Congress considers the current DOE MRS proposal, DOE should (1) provide a more comprehensive and integrated non-HRS alternative (i.e., the currently authorized waste management system) for comparison to the proposed MRS and (2) provide an estimate of the cost of all elements associated with MRS. The State of Tennessee has indicated full concurrence in GAO's recommendations on the need for additional information on MRS costs and on alternatives for improving the waste management system.

4. DOE indicated in its June 1987 report, "Nuclear Waste Fund Fee Adequacy: An Assessment," that the 1-mill/kWh fee is sufficient at this time, but an indexing inflation factor may be needed as soon as 1988.

5. Legislation S. 748, proposed by Senator Sasser, would provide an onsite storage credit to utilities against the contributions they have already made to the Nuclear Waste Fund. The legislation also requires each licensee to develop and implement, based on NRC's approval, a spent fuel contingency management plan. This plan would be for storage needs beyond the January 1998 target date for repository operation established by NWPA.

6. In response to previous testimony at congressional hearings that "the entire nuclear industry supports the need for the MRS facility," the APPA transmittal clarified, for the record, that the association has taken no position on the current DOE MRS proposal. APPA supports NWPA as enacted but does not support DOE's draft amendment to its mission plan which postpones operation of the first repository for five years. APPA emphasized the need to move ahead because delays jeopardize the NWPA and destroy public confidence in industry's ability to provide a permanent solution.

7. The APPA transmittal also included a proposal by the New York Power Authority (NYPA) regarding a policy statement on the high-level waste repository and MRS. The intent of the transmittal is to determine whether there are other utilities with the similar sentiments as NYPA. NYPA's proposal regarding the repository program calls for (1) modification of the standard contract with DOE for repository services to provide credits to utilities for their spent fuel storage cost after 1998 and for actions which they undertake that reduce DOE's overall disposal cost, (2) conditioning any increase in the Nuclear Waste Fund fee with attainment by DOE of agreed-upon milestones, and (3) strong consideration of the recommendations of the advisory panel on Alternative Means of Financing and Manag-

ing Radioactive Waste Facilities that the program be removed from DOE and given to a quasi-governmental organization. These proposals, which could have a beneficial impact on implementation of NWPA, are considered in TVA's best interest and should be supported. In addition, NYPA proposes that MRS, as proposed by DOE, be authorized and funded by Congress. This proposal is not considered to be in TVA's best interest and therefore should not be supported since it would require payment by TVA and use of MRS regardless of our own spent fuel storage capabilities and plans.

ATTACHMENT 2

II. TVA's Spent Fuel Management Planning

As recently affirmed in TVA's response to the Office of Management and Budget (OMB) regarding DOE's draft bill to authorize the MRS, TVA's spent fuel management planning basis has been to ensure adequate, onsite, life-of-plant spent fuel storage at each plant. This contingency planning has been considered prudent for the following reasons:

1. By current projections, TVA will require additional spent fuel storage capacity before any Federal nuclear waste storage or disposal facility is available to meet our needs. When considering the startup period and fuel receipt rate of any such Federal facility, TVA could be required to continue to add additional storage capacity until as late as the year 2008, even assuming the current DOE schedules are met.

2. The schedule for actual availability of any Federal facility to relieve TVA of its additional storage requirements has always been and continues to be highly uncertain. With the current status of implementation of the NWPA, continuing delays in the program are considered likely. The schedule for the first repository, currently the only authorized facility under the NWPA, has been delayed for five years from 1998 until 2003 for initial startup, the MRS, as proposed by DOE, would be scheduled for initial operation by 1998 with full operational receipt achieved by 2003. However, actual authorization of the MRS is currently uncertain and, since startup of the MRS itself is linked to DOE receipt of a construction permit for the first repository, the proposed MRS schedule is also highly uncertain.

3. TVA's studies have indicated that safe and economically viable storage options do exist that would allow us to meet our storage needs, even achieve life-of-plant storage if necessary, at each of our plants. These studies also indicate that incorporation of these options, along with an overall system management approach by DOE in the NWPA program, could save TVA's ratepayers very significant expenditures. The MRS itself could cost TVA ratepayers approximately $200 million more than implementation of TVA's onsite storage.

4. Review and development of TVA's spent fuel management concepts have involved an extensive cross section of national, State, local, and public, and private organizations and individuals active in nuclear waste management. To date, these concepts have received a broad base of support from these groups, especially from and within the State of Tennessee.

EDISON ELECTRIC INSTITUTE (EEI) TRANSMITTALS REGARDING NUCLEAR WASTE POLICY ACT (NWPA) AND ACORD ACTIVITIES

W.F. Willis, General Manager, E12 B16 C-K (7).

S.A. White, Manager of Nuclear Power, LP 6N 38A-C.

June 8, 1987.

The following comments are provided in response to the March 26, April 3, and May 8 letter from Loring Mills, of EEI, regarding current activities related to NWPA and the June 9 ACORD meeting that Chairman Dean has indicated he plans to attend. In addition, our comments of June 5 to Edward S. Christenbury, as they relate to this subject, are directly applicable.

John Siegel, of the Atomic Industrial Forum (AIF), stated at the May 14 AIF Subcommittee on Spent Fuel Storage meeting that he intends to provide a forum at the upcoming ACORD meeting for discussion of utility thoughts regarding the currently proposed Monitored Retrievable Storage (MRS) and for consideration of options to the Department of Energy's (DOE) proposal. This action appears to be based on utility response to the testimony of W.W. Berry at the April 29 Senate hearings on MRS where he stated, "The industry supports, unequivocally, the need for the MES." As discussed at the May 14 AIF meeting, the May 4 AIF Oversight Committee meeting, and the May 18 Electric Power Research Institute External Fuel Cycle Committee meeting, this testimony is in conflict with other industry statements regarding MRS.

Utilities represented at these meetings have not indicated total support regarding the need for an MRS; and, in particular, some industry spokesman have stated that their companies have refused to sign an AIF statement in support fo MRS. To date, a number of utilities are developing their own storage capabilities to address their long-term needs and are pushing for DOE consideration of options that incorporate utility onsite spent fuel management into the DOE system.

With regard to the Government Accounting Office's (GAO) report discussed in Mr. Berry's testimony and based on our contact with utility representatives responsible for response to the GAO survey, we believe that the GAO survey was reasonably accurate and can be considered a reliable indication of utility needs and attitudes related to an MRS. We believe that review of the MRS issue at this timely point by ACORD would be in the best interest of TVA and the nuclear industry.

The PRESIDING OFFICER. The Senator from Washington.

Mr. ADAMS. Thank you, Mr. President.

Mr. President, we now have the amendment of the distinguished Senator from Louisiana before the Senate. Let me, if I may, try to draw a distinction between the amendment now before us and the amendment that Senator REID and I offered yesterday. They are very different.

The amendment that we had before the Senate yesterday was nicknamed, by our staff at least, the "Kitchen Sink Without the Drain" amendment. They gave it that name because it included the kitchen sink.

All of the amendments adopted by the Energy and Water Appropriations Committee and the Full Appropriations Committee as well, and all the House language that the committee had agreed to at the same time had excluded the drain.

Senator REID and Senator ADAMS offered an amendment that would exclude S. 1668, the Nuclear Waste Policy Act Amendments of 1987 which was reported by the Energy Committee on August 7 of this year.

I want to stress, Mr. President, that S. 1668 is not law. It was a bill which was put in by the Energy Committee and it has passed out of the Energy Committee but it is pending as a bill to come to the floor. And I will repeat what I said yesterday.

I have indicated to the chairman of the Energy Committee, and to all other Senators, that we would be willing—at least this Senator would—to agree to a time agreement on that authorization bill.

There has also been placed a separate authorization bill, from the Environment and Public Works Committee, into the reconciliation bill. So we have pending two authorization bills in the reconciliation vehicle. That is why we have had such a long fight, and it will continue, not to put legislation of this type of complicated nature into an appropriations bill.

If our amendment yesterday was called the kitchen sink without the drain, the amendment by the Senator from Louisiana, the chairman of the subcommittee and manager of the appropriations bill, would certainly include the drain. So we now have the kitchen sink with the drain. It would force us to wash the Nuclear Waste Policy Act of 1982 down the drain but it would also take one State down the drain with it.

And I want to talk with my colleagues today about some of the objections I have to this legislation. Yesterday when I addressed the Senate, I raised a number of procedural concerns about considering authorizing legislation on an appropriation bill. That fight will continue.

I object to the procedures of the Senate, and yes, of the other body, the House, being completely bypassed by putting legislation on appropriations bills. I think that bypasses the authorizing committees, it takes out of the potential conference the people who have expertise, many of whom have spent their careers in the U.S. Senate working on this issue. It would bypass them on a conference and we would have simply an appropriation conference. So those procedural things are important.

I am not going to repeat those arguments today. I just have one last thing that I want to say on the procedural issue at this time—that I recognize fully that sometimes the Senate will include legislation on an appropriation

bill. But usually we do it with some degree of subtlety or we do it because of some overwhelming pressing need. Neither of those situations apply here.

We have an appropriation bill which incorporates by reference—it does not repeat the language, but just by reference—a pure authorization act which has never been considered by the Senate. That may be many things, but, Mr. President, it certainly is not subtle. And it is not pressing.

My goodness, Mr. President. As the Senator from Nevada and I pointed out yesterday we will be considering this issue on reconciliation hopefully in the next few days. So it is going to come up and it is going to come up in an authorizing form.

I will later in this year and certainly during the next session address the whole problem of reconciliation. It also tends to bypass authorizing committees by rolling into one large bill all of the authorizations and appropriations. This started in 1981. I was not in either the House or the Senate in those days. But I had been the first budget chairman, and the rolling together of all matters in a reconciliation bill I think is bad legislating. It prevents real consideration of authorizing committees' work, and it combines appropriations and authorizations. But at least it does that. It has authorizing committees available in it.

In this case it will have the Environment and Public Works' version as well as the Energy Committee version of what to do with nuclear waste. And out of that we would go then to conference with all of the authorizing committees involved as well as the Appropriations Committees.

So the appropriate authorizing committees in the Senate and in the House would have an opportunity to speak. Be that as it may, we are considering an authorization bill in the context of an appropriation bill. And today I would like to open the debate on and discuss with my colleagues some of the problems I see in the authorization in S. 1668, if it were ever to come before this body.

I realize that some of my colleagues have not lived with the issue of nuclear waste on a daily basis as Senator REID and I have. That is understandable. And it indicates why we perhaps have had to spend more time on this issue than many of our other colleagues. We live with it every day, every day.

Many do not realize that under existing law before a repository is selected all three of the candidate sites are supposed to be subjected to characterization. That is, for all three sites a drill is supposed to bore a giant hole in the earth, and gain information about subsurface characteristics of all three sites.

The reason that all three sites were to be subjected to this characterization was so that DOE could make a rational decision at least to the extent that they can about which of the three sites was best suited to be a repository for the Nation's nuclear waste.

The key is that the existing law requires a comparative evaluation of the three sites before a decision is made. In other words, know what you are doing before you decide; not to decide and repent later.

Now, deciding and repenting later is precisely the kind of thing that would happen under this bill. This bill is trying to avoid having the information and doing the necessary characterization which is required to select a site.

This morning the Senator from Louisiana, the manager of the bill, modified his amendment, and I requested that I at least have it read or that it be immediately made available. The ground is shifting on characterization but he has not met the full problem.

I think that our debate yesterday made the point to a number of people that you should know what you are doing before selecting a site.

The reason we are having so much trouble with this bill now is the fact that the sites were picked on a political rather than a scientific basis. And the consensus and support of the bill blew apart. It is unfortunate for the Nation that that happened. But it has happened, and DOE did it.

I want to talk now about characterization, because there is a difference between drilling a huge shaft which may go through the aquifer, may go through an existing dump site, may have water coming up instead of going down, and may dump as it goes down if it goes through a hazardous waste site.

As I said yesterday, there are 55 of these, at a minimum, in Hanford Reservation. They do not even know where they are. They could go through one of those and go through the aquifer or the water could wash it away. It is possible that we do not need characterization at each site prior to exploring a site for a shaft.

I indicated to the Senator from Louisiana, and I want to make it clear, that I can accept some form of sequential characterization—going one, two, three. I can accept the notion that we will decide that one of the three sites is best suited to be a repository without drilling a shaft and without doing full characterization in all three places. This saves the money that he talks about, to a considerable degree—in other words, the ratepayer money that is paid on the millage that goes into an account that is then spent by the appropriations process through the Department of Energy. But if we are to make this change in direction, it makes sense that we have some rational basis, some objective data base, some reasonable amount of evidence, before we make a decision. In other words, let us not repeat the mistake made in going from five sites to three, by going from three to one, and not knowing what we, as a nation, are doing.

After all, the decision to select a single site to dispose of the Nation's commercial and civilian nuclear waste is not a trivial one. It is a decision of great magnitude. What I object to in the authorization bill, which is lurking in this appropriation bill, is the fact that it does not require—indeed, it does not allow—a rational decision to be made. The bill is based on this assumption, which I feel is false. It is based on the assumption that DOE now has enough information available to it to make a decision as to which site to select without doing the in-depth characterization currently required at all three sites. It is upon that assumption that this amendment and the authorization bill upon which it is based depend.

However, while that assumption may not be accepted by the Members who support this amendment, it is not shared by those who need to implement it. In fact, Mr. President, the Nuclear Regulatory Commission, which will need to license the repository which may be selected under the process contained in this amendment, has serious concerns about the procedures this amendment contains. In a few moments, I will read into the RECORD several memoranda submitted to the Nuclear Regulatory Commission from the staff of the NRC. But before I turn to those official documents, I want to mention in passing the fact that the Environment and Public Works Committee held a hearing, one of a number of hearings they held on this subject, on October 29 of this year.

While no official transcript of that hearing is yet available, I understand that the NRC staff and the Chairman of the NRC expressed strong doubts and reservations about the wisdom of requiring a decision based upon what they know today about those sites and the DOE program of a single site for characterization as this amendment proposes.

It is my impression that the testimony on that day before the Environment and Public Works Subcommittee indicates that the NRC does not believe that there is enough information to decide where to sink an exploratory shaft of the kind envisioned in this amendment. They just do not know. As I indicated in my remarks yesterday, this is a huge shaft. The drill that sits on the Hanford Reservation now is the second-largest drilling rig in the world. It is an enormous instrument and would create a shaft many feet across. This is not just some small exploratory borer. This is like a mine

shaft of very large proportions drilled into the ground.

What the staff and the Commission indicated was that before you sink a shaft, before you spend all the money involved in that sort of activity, you need a lot more information than we have now. Yet, it is precisely that sort of information which the pending amendment would prevent us getting. It is precisely that kind of information which would make the decision of DOE—and ultimately the NRC, to license a facility—much more scientific and much more likely to prove safe and to provide a method of protecting the health and environment of the Nation.

The point is simply this, Mr. President: The amendment pending by the Senator from Louisiana does not require—indeed, it actually prevents—us from gathering the kind of information that we need if we are going to make a rational and realistic analysis of the three candidate sites before spending billions of dollars to sink a shaft, only then to find that the site is not any good.

Last night, the Senator from Louisiana said that we have to save billions of dollars by not characterizing all these sites. We agree, and we would save that money. We would not drill the site. We would go just to surface characterization, and it would give information on these sites to the appropriate officials and to the Congress of the United States and to the American people that we knew what we were doing and that we were not just drilling, drilling, drilling.

In that context, one of the amendments I attempted to discuss with the chairman of the committee would have us do some additional surface base characterization at all three sites before we sank a billion dollars into each shaft. He was unwilling at that time to consider that amendment because it conflicted with his desire to make a decision by a date certain, an issue I am perfectly willing to discuss.

My point now is that this option of gathering information has been presented to the committee. It was similar to the provision reported by the Environment and Public Works Committee in its reconciliation package described in a "Dear Colleague" letter circulated to the committee yesterday. I hope my colleagues will read the "Dear Colleague" letter circulated by Senator REID, me, and others, and that by Senator BREAUX and others, from the Environment and Public Works Committee.

Mr. BYRD. Mr. President, will the distinguished Senator yield?

Mr. ADAMS. Mr. President, I ask unanimous consent that I may yield, without it counting as a speech under the two-speech rule.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ADAMS. I yield the floor.

Mr. BYRD. I thank the distinguished Senator.

I ask unanimous consent that the RECORD not show an interruption in the Senator's statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that the distinguished Senator from Alaska be permitted to speak, as if in morning business, for 5 minutes; that the pending bill be temporarily laid aside; that upon the yielding of the floor then by Mr. STEVENS, the Senate proceed to the consideration of Calendar Order No. 396, House Concurrent Resolution 195.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I thank my good friend, the distinguished majority leader.

(The remarks of Mr. STEVENS are printed earlier in the RECORD, by unanimous consent.)

PRINTING OF REPORTS OF THE SENATE AND HOUSE SELECT COMMITTEES ON IRAN

The PRESIDING OFFICER. Under the previous order the Senate will proceed to the consideration of House Concurrent Resolution 195. The clerk will report.

The bill clerk read as follows:

A concurrent resolution (H. Con. Res. 195) providing for filing and printing of the reports of the House and Senate select committees on Iran as a joint report.

The Senate proceeded to consider the concurrent resolution.

The PRESIDING OFFICER (Mr. CONRAD). The Senator from Hawaii.

AMENDMENT NO. 1128

(Purpose: To revise the organization of and number of reports to be printed)

Mr. INOUYE. Mr. President, I send and amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Hawaii [Mr. INOUYE], for himself and Mr. RUDMAN, proposes an amendment numbered 1128.

On page 2, line 4, strike all through line 18 and insert in lieu thereof the following:

"(b) The first volume of the joint report shall contain a summary of facts, descriptive matter, findings, conclusions, and recommendations, including supplemental, minority, and additional views. In addition to the usual number, nine thousand copies of such volume shall be printed for the use of the House select committee and nine thousand copies of such volume shall be printed for the use of the Senate select committee."

Mr. INOUYE. Mr. President, we are ready for a vote.

I have been advised that the distinguished Senator from North Carolina has an amendment.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I have a few questions I would like to direct to the managers of the bill.

First of all, would one of the distinguished Senators advise me on the question of the number of extra copies—and I put "extra copies" in quotes because it has a meaning under the rules of the Senate—the extra copies that will be printed as the term extra copies is defined under the law?

Mr. INOUYE. If the Senator would yield, under the amendment under consideration, each House will have, in addition to the usual number of a thousand, 9,000 copies per House; an additional 18,000 for both Houses.

Mr. HELMS. How many copies of the appendix?

Mr. INOUYE. 1,000.

Mr. HELMS. So there will be a total of how many copies of the report.

Mr. INOUYE. We will have 2,000 copies of the appendix, 20,000 copies of the report. The report will be in one volume.

Mr. HELMS. May I ask how many copies are printed in accordance with the so-called usual number provided for under the statute?

Mr. INOUYE. The usual number is 1,000.

Mr. RUDMAN. Will the Senator from North Carolina yield for an additional comment on his question?

Mr. HELMS. Certainly. I am trying to take a few notes; 20,000 plus 1,000, is that what the Senator said?

Mr. INOUYE. One thousand, plus 9,000 for each House, a total of 20,000 reports for the Congress of the United States.

Mr. HELMS. Yes, I yield to the distinguished Senator from New Hampshire.

Mr. RUDMAN. The Senator from North Carolina might be interested to know that the normal rules entitle each committee to issue a separate report and print 1,000 copies. That would have cost each House approximately $29,000. So the committees would have spent roughly $58,000.

As the Senator from North Carolina knows, it is the first copy that costs the most money. The incremental spending on this is actually $35,780. That is what all of the additional copies would cost.

Mr. HELMS. I thank the Senator.

Then, that raises a question: What is the precise extra cost for the extra copies to be printed?

Mr. RUDMAN. Mr. President, assuming separate reports, which is

what we had assumed originally, $35,780. I might add that this report, I would advise my friend from North Carolina, appears to be in the range of between 500 and 700 pages, one volume containing both majority and minority views. To save money, all will be in one volume, including dissenting views and concurring views. The volume size will not be the size of a normal congressional report. The volume size will be similar to that of the Tower Commission report.

Mr. HELMS. I thank the Senator.

Now, how will these extra copies be distributed?

Mr. INOUYE. Ten thousand copies per House will be distributed to Members, to the media, to the administration, and to libraries throughout the Nation. In fact, it is the judgment of the committee that 20,000 copies may not suffice.

Mr. HELMS. May not suffice?

Mr. INOUYE. May not suffice. But keeping in the spirit of austerity that prevails throughout the Congress, we have decided to tighten our belt.

Mr. HELMS. Can the Senator from Hawaii tell me how many copies each Senator will get?

Mr. INOUYE. We will have to accommodate the libraries and the media and the administration and, at that rate, I would hope that each Member will be able to get at least 50.

Mr. RUDMAN. If the Senator would yield, I am advised that because of the potential demand for the copies, what will probably happen is that the Government Printing Office will print additional volumes, as they do with many Government documents, and offer them for sale generally. But the committees felt that their limit on the report would be the 20,000.

Mr. HELMS. So there will be no instance of a Senator using these for mass mailings purposes, under the Senate definition of mass mailings?

Mr. INOUYE. Unless we describe 10 volumes being mailed out as mass mailings.

Mr. HELMS. No; I would say to the Senator, over 500. There is no possibility?

Mr. INOUYE. No possibility.

Mr. HELMS. Well, that is comforting. It is reassuring that we will not have to worry about the cost of mailing any document in mass quantities.

Now, I believe you mentioned the number of pages in this volume. Would you restate that for me.

Mr. RUDMAN. The committee finally approved the report this morning. We have to get a conversion figure from the Government Printing Office, but we believe that it will come out between 500 and 700 printed pages. So it is a rather substantial volume.

But as the Senator from North Carolina I am sure knows, once you start printing a volume of this size, the additional pages have a diminishing cost in proportion to what the volume would cost if it had, say, 200 pages. And once you go for the binding, the binding costs would not be that much more for a volume of this size. We decided, in the interest of economy, to publish one volume that will be reasonable.

Now, I have some doubts myself in terms of how the middle pages will read in terms of folding on the binding. But we have made that decision.

Mr. HELMS. I thank the Senator.

At the time this committee was constituted, I stated, with all due and true respect for my colleagues from Hawaii and New Hampshire, that I thought another investigating committee and another television circus was the last thing we needed.

I must say, in all honesty, I still hold that view.

Does either Senator have any notion as to what demand there will be for extra copies to be purchased from the Government Printing Office? Have you any mail count, people requesting them, that sort of thing?

Mr. RUDMAN. I would advise my friend from North Carolina that it is my sense, from mail I have received and from comments from various other colleagues, that there is going to be a substantial demand way beyond the 20,000 copies. And people will just pay for those.

I daresay that a number of libraries in the country, secondary school libraries, college libraries, will not be able to get a copy, even among the copies that we are now printing, after you distribute to the House and the Senate. There are 10,000 volumes for the House of Representatives, for instance, and each Member of the House may receive 10. That will be 4,350 copies. In the Senate, if we receive 50, or 20, even, it will be somewhere in the several thousand range.

So my anticipation is that GPO will have to print additional volumes for sale. It is also assumed that, as the Tower Commission report, there might be private enterpreneurs who decide to print it. As the Senator well knows, there is no copyright on this type of document.

Mr. HELMS. Well, I hope that would be the case, because I do not know of any function of Government that does anything at a profit. More functions should turn over to the entrepreneurs.

The Senators have no way of knowing whether there will be a policy of sending this material only to the people who request it. Are you going to send it to all the libraries, whether they ask for it or not?

Mr. RUDMAN. I can only answer in terms of what I intend to do, and that is to send them to the major libraries in my State, such as in reasonable numbers to our college libraries, our university libraries, our secondary school libraries and large municipal libraries, to the extent I can send them copies. Other than that, I will tell them to write to the Government Printing Office and buy one.

Mr. HELMS. But the committee is not going to send any to libraries? It would be up to each Senator?

Mr. RUDMAN. I can only say that the chairman and vice chairman might decide, out of their allocation, to send a few to some libraries, but we have not made that decision. We have not precluded it, but certainly, in my discussion with the chairman—and he can speak for himself—we intend no mass mailings of our own.

Mr. HELMS. The Senator from Hawaii said that there will be at least 50 copies available to each Senator. I will be glad to share some of my copies with other Senators.

What will be the maximum number of copies that a Senator might expect?

Mr. INOUYE. Two hundred.

Mr. HELMS. Two hundred?

Mr. INOUYE. I mean 100 copies, dividing 10,000 by——

Mr. HELMS. So it will be somewhere between 50 and 100?

Mr. INOUYE. Sir?

Mr. HELMS. It will be somewhere between 50 copies and 100 copies?

Mr. INOUYE. It could be lower than that.

Mr. HELMS. I understand that. But——

Mr. INOUYE. Because from our allotment we will be providing necessary copies to the administration. I am certain the White House will want some. The CIA most certainly will be asking for some. The Justice Department, the FBI, Department of Defense, State Department.

Mr. HELMS. But, did not the Senator say no fewer than 50 copies?

Mr. INOUYE. I said I hope that we have no fewer than 50.

Mr. HELMS. Oh, I see.

Mr. INOUYE. Very likely we will end up with something like 20 copies.

Mr. HELMS. Does either Senator have any figure in mind as to the number of requests there have been so far, other than those requested by the media, Senators, Members of the House, the FBI, the administration and so forth? How many copies from the general public have been requested?

Mr. INOUYE. If my mailbag is any indication, and I do not believe it is because many of those sending letters to me send them to me in my capacity as chairman—I received a total in excess of 140,000 letters and in those letters, easily over 25,000 requested copies of reports.

Mr. RUDMAN. I wanted to also respond that I also received a large number of requests and our standard response was that we did not think we would have sufficient copies for gener-

al distribution. Although I am sure, if the Senator would join with us, if we wanted to do a real public service we could increase the number of public volumes printed and really serve the people of the country well. But I really doubt I would get that cooperation today.

Mr. HELMS. Well, I am not certain about that. Maybe the people of this country would rather have the money saved.

But that runs the gamut of my questions, Mr. President. Is the bill now open to amendment?

The PRESIDING OFFICER. There is an amendment pending.

Mr. HELMS. I see. I yield the floor.

The PRESIDING OFFICER. If there is no further debate the question is on the amendment.

Mr. HELMS. Mr. President, would the managers mind stating what the amendment does in a brief sort of way?

Mr. INOUYE. This amendment states that, in addition to the usual number of copies per House, 9,000 copies will be printed per House.

Mr. HELMS. I thank the Senator.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Hawaii.

The amendment (No. 1128) was agreed to.

Mr. INOUYE. I move to reconsider the vote by which the amendment was agreed to.

Mr. RUDMAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1129

(Purpose: To insure that Lt. Col. Oliver North and others are not prosecuted for criminal activities in connection with the so called Iran-Contra matter except upon showing of clear, personal and illegal financial gain or their perjury)

Mr. HELMS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from North Carolina [Mr. HELMS] proposes an amendment numbered 1129.

The amendment is as follows:

Add at the end of the Concurrent Resolution the following new section:

"SEC. . It is the Sense of Congress that it is not in the national security interest of the United States that any individual who appeared before the Senate Select Committee on Secret Military Assistance to Iran and the Nicaraguan Opposition or the House Select Committee to Investigate Covert Arms Transactions With Iran should be indicted or otherwise prosecuted or tried for any activity related to the subject matter before such Committees unless such activities resulted in the clear personal and illegal financial gain of such persons or their perjury.".

Mr. HELMS. Mr. President, let me say at the outset that I have had many requests to offer this amendment. Not a one of them coming from anybody in Government. The requests have come from the American people, obviously, especially from North Carolina, who have had their own reaction to the events of the past several months.

I am offering this amendment in a bipartisan spirit, in the hope that the Senate will go on record against a further drawing out, extension of the Iran-Contra affair that will serve absolutely no purpose except to aid those governments around the world which are unfriendly to the United States, chiefly the Soviet Union and Iran.

The amendment is non-binding. I intended it to be that way. But it recommends that there be no individual prosecutions, which will inevitably degenerate into show trials not unlike the Soviet model, unless the prosecution charges criminal personal financial gain or perjury of the defendant. The amendment expresses the view that prosecution in other circumstances would not serve the public good and that the potential damage to the national security interest of the entire country would outweigh whatever minor advantage or petty satisfaction to be derived from extracting another pound of flesh from those involved in this unfortunate affair.

Obviously, justice should be served if there is evidence of criminal conduct for personal enrichment or of clear perjury; otherwise justice will not be served in the judgment of this Senator, nor will the public good.

It is well established in American law that prosecutorial discretion is permitted prosecutors at all levels for exactly that purpose. Similar discretion is given even a special prosecutor appointed under the so-called Special Prosecutor Act found at 28 U.S.C. section 594. In fact, 28 U.S.C. section 594(g) specifically grants authority to a special prosecutor "to dismiss matters within his prosecutorial jurisdiction without conducting an investigation or at any subsequent time prior to prosecution if to do so would be consistent with the written or other established policies of the Department of Justice with respect to the enforcement of criminal laws."

I point out to the Senate that the term "other established policies" was recently added by Congress in Public Law 97-409 section 2(a)(1)(A) and that subsection (g) specifically granting authority to decline prosecution on such basis was added in the 97th Congress by the same Public Law 97-409 at section 6(c) which added the material I have quoted.

Since "other established policies" and, indeed, I believe even "written policies" allow consideration of the overall national security and public good, it follows that a special prosecutor not only "may" but under the statute "must" take those factors into account in determining whether or not to dismiss a prosecution.

Now, Mr. President, despite these facts, I am certain we are going to hear a chorus of Senators who want their pound of flesh asserting that my amendment interferes with the special prosecutor, or as he is now called the independent counsel. These Senators—when they do come forward, as I suspect they shall—will be wrong for the following three reasons.

First, the amendment is nonbinding. It simply states the sense of the Senate that, absent personal criminal gain or perjury, the public good would not be served by flogging this dead horse any further.

It implies also that to do so would be a matter of little more than holding this country up to further ridicule for the benefit only of our enemies.

But I reiterate for the point of emphasis, that this amendment mandates nothing.

Second, the amendment acknowledges but does not interfere with the well-established tenet of common law that every crime, taking account of surrounding circumstances and the overall public good, need not be brought to trial. That is why there is prosecutorial discretion in the first place. That is why a citizen preventing a bank robbery with his own illegally-possessed weapon is normally congratulated rather than being sent to jail.

But, again, Mr. President, the amendment is advisory, it is an opinion, and it does not at all or in any way direct that any prosecution be dismissed.

Third, independent counsel status has been amended for the precise purpose of allowing the counsel to exercise discretion in matters of this nature. All this amendment does is encourage consideration of the national interest in the counsel's decision.

The amendment absolutely does no more than that.

Maybe Senators are having a different reaction from their constituents from the reaction that I have had in a torrent of mail, telephone calls, and personal visits. But based on the reading of the American people with whom I have been in contact, they are tired of hauling military officers and others before various tribunals asking them about everything ranging from their NFL preferences to where they keep their paperclips.

The American people who have contacted me, by almost a unanimous majority, have said in one fashion or another, "enough is enough."

So unless there be individuals who have perjured themselves or stolen funds from the public, I think they

need to be left in peace now. Several of them have risked their lives and sustained wounds in battle defending the people of the United States. Although in the present matter they may have been wrong, they may have been unwise, they may have been unthinking, I think there is little question that emerged from the hearing that they were trying to serve their country.

Their inentions were honorable and their actions had been undertaken for their country as best they saw it. Their vision may have been clouded.

We may have learned a great deal, and I think we did, about policy. But I will tell you one thing, Mr. President: I was provoked last night by a 90-minute television documentary by a self-proclaimed expert, Mr. Bill Moyers, wherein he went back and destroyed, as best he could, the character of Winston Churchill, Franklin Roosevelt, Lyndon Johnson, whom he served at one time as a patsy. Ronald Reagan he was particularly hard on. He said time and time again that "Ronald Reagan lied when he said that" or "Ronald Reagan did not tell the truth when he said that," never once giving the other side in terms of what the Nation was confronting during World War II, during the Vietnam war, or during the Korean war, and now in the war, declared or undeclared, that exists in Central America, in Africa, in Afghanistan, and so forth.

It was, in short, a sorry performance by a newsman who undoubtedly congratulates himself on pillorying people who are dead, who cannot defend themselves. And even if they were here, they could not go into the classified information in the first place.

It was 90 minutes devoted to running this country down. It was 90 minutes of blaming America first with scarcely a mumbling word about the real evil in the world, the real danger in this world, and that is the force of communism.

So I am not mystified that people, at least those from my State, are saying "enough is enough. Let us put this behind us. Let us consider that we may have learned something." I do not think that Ollie North ought to be indicted. I do not think that he ought to be pushed around anymore.

The purpose of this amendment is to give Senators an opportunity to express on opinion as a body as to whether enough is in fact enough.

Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. I thank the Chair and I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. RUDMAN. Mr. President, let me say at the outset that if this amendment were appropriate at all, even as a nonbinding sense-of-the-Senate resolution, it seems to me that it might be appropriate after our colleagues had a chance to read a 5- to 700-page report that the committee will be releasing on the 17th of November. Certainly, very few Members of the Senate, other than those who are on the panel, I would doubt have had the opportunity to have the insight into the evidence that the members of the panel had and that the report will reflect.

It may well be after reading that report that the Senator from North Carolina might attract many adherents and supporters to his amendment. He might today.

This is a very premature kind of an offering, it seems to me, because there is much in the report which I believe will come as somewhat of a surprise to even those who thought they followed the hearings.

Second, let me say if there is one thing that we believe in America it is equal justice under the law.

Let me say that this committee report, when it is published, does not recommend the prosecution of anyone. It talks at great length about the law because we are a nation of laws. But it leaves to Mr. Walsh, who, incidentally, I think bears little resemblance to Bill Moyers, the ultimate decision of whether to proceed to a grand jury. That, of course, is as it should be because we do believe in this country in the separation of powers, that the traditional executive, legislative, and judicial branches are all quite separate.

Having said that, I say reluctantly that, although I deeply admired many of the witnesses before us for their exemplary conduct in the defense of America, conduct that many Members of this Senate have also engaged in in other places at other times, that there is evidence before the committee that I think is best left to a prosecutor. It may well be that even though laws may have been violated, there was no criminal intent. If that is true, I have great confidence in the judicial system that a good trial will prove there was not criminal intent.

Look just for a moment at actions that, to put it, I think, mildy, contain evidence of probable cause within our hearing record in the words of the witnesses themselves.

We have the shredding of hundreds, possibly thousands, of documents, not to hide them from the KGB, but from the FBI.

We have lying to an Attorney General of the United States. We have lying to the Congress. We have conversion of millions of dollars of U.S. Government property belonging to the taxpayers. We have misappropriation. We have the gross mishandling of classified documents. And the list goes on, and I will not bore the Senate with it. The committee assiduously has avoided in its report the casting of any criminal shadow over any witness in a section of the report that is entitled "The Rule of Law." We leave that to Mr. Walsh, who was appointed at the request of the Attorney General of the United States, and I would assume with the concurrence of the President of the United States.

I wish no one any ill. I believe that there are adequate defenses to some of the charges that Mr. Walsh may bring, and that the justice system will prevail. I understand fully what my friend from North Carolina is saying. I do not disagree with part of it in terms of some of the people involved. If, in fact, they were only acting out of patriotic zeal and had no intent whatsoever to violate U.S. law, even that which can be imputed by their actions in some cases under holdings of our highest courts, then they ought to be acquitted. But we, as a U.S. Senate, it seems to me, if nothing else, ought to observe the rule of law.

We finished our hearings. Democrats and Republicans alike were dedicated to not putting a shadow over any of the witnesses in terms of subsequent possible prosecutions. The report will read just that way.

Although this is nonbinding, I know the Senator from North Carolina would not disagree with me that a sense-of-the-Senate resolution such as this has a certain force and power of its own. If it did not, the Senator from North Carolina would not waste the time of the body to introduce it. So I hope that we will defeat this amendment, not because I do not share some of the views of my friends from North Carolina about some of the witnesses, but because I think the question must be addressed by other people at other times if the symbol that is on our Supreme Court, "Equal Justice Under the Law" has a meaning to all Americans, rich and poor, civilian and military. The strength of this democracy is that none of us are above the law, even those who may break laws because they may think it is in the national interest.

I yield the floor.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine.

Mr. MITCHELL. Mr. President, I urge Members of the Senate to vote against this amendment. It is really highly inappropriate for the legislative branch in this fashion to attempt to intervene directly into a pending matter before another branch of Government, specifically the possibility of

a criminal indictment arising out of these events. It contradicts directly and flatly the principle of separation of powers between the three branches of Government, and it is an effort without precedent in my knowledge to have the legislative branch be dictating to another branch of Government who ought or who ought not to be subject to criminal prosecution.

Senators ought to think carefully that if we start down this road now, where does it stop.

The Senator from North Carolina was very candid in saying that the people of his State want this matter to end. Presumably, he is referring to a majority in his State and there may well be a majority in the country for that position. Are we then to subject criminal prosecutions, the decisions on criminal prosecutions in this society to public opinion polls?

Whether or not anyone is indicted in this case is a decision to be made by the independent counsel, an independent counsel appointed by the present Attorney General at the specific request of the President of the United States. Indeed, it is my recollection that the President took the extraordinary step of personally announcing the appointment of the independent counsel—the only time that has ever happened to my recollection under the independent counsel statute.

And so we have the present Attorney General naming an independent counsel at the specific request of the President and now the Senate asked to dictate to that independent counsel what he should or should not do. Even if we had all of the evidence that is in the possession of the independent counsel, it would be inappropriate for us to take this step, but the reality is that not a single Member of the Senate, not one, not the Senator from North Carolina, not the distinguished Senator from Hawaii, who is the chairman of our committee, not the distinguished Senator from New Hampshire, who is the vice chairman of the committee, no other members of the select committee, no other Member of the Senate knows, can possibly know or can legally know all of the evidence that is in the possession of the independent counsel.

We specifically established legal mechanisms in our society to encourage the gathering of information by prosecuters, and one of the ways we facilitate that is to make those proceedings in part secret, and we do not permit the dissemination of that information. That helps us as a society because it encourages the gathering of complete information by prosecutors. We, therefore, render that entire process suspect.

If the Senate, admittedly not possessing the information which is available to the independent counsel, not knowing what evidence the independent counsel has, enacts a resolution telling him not to indict anyone, how can we possibly know that? What would the Members of the Senate think if we went before a court and the jury before hearing the evidence, not knowing what the facts were, rendered a judgment? And yet that is precisely what the Senate is being asked to do.

The Senate is being asked to express an opinion on which it does not have all of the information, on which it did not legally have all of the information, and therefore plainly we should not approve this resolution. It is most inappropriate.

We already have two branches of Government, the executive branch headed by the President, and the legislative branch, consisting of the Senate and the House, where too many decisions are already made on the basis of public opinion polls.

Are we now to say that the third branch is to engage in decisionmaking by public opinion poll? That if someone happens to be popular or receive a favorable rating in the polls, we ought not to let the normal processes of Government go forward?

It is a very dangerous road that the Senate is being asked to start down. And remember, if we say that someone ought not to be prosecuted because the public opinion polls show they are popular, how much of a step is it to saying that those who are unpopular ought to be subject to prosecution? What American now could be assured if the Senate were to adopt this resolution that someday in some future circumstance they might be subject to an unwarranted prosecution or that others who should be prosecuted would not be?

Mr. President, I want to conclude with one brief comment. One of the very real problems in our Nation today is that large numbers of Americans believe that there are two systems of justice in America. They believe that there is one system of justice for all of the ordinary citizens, and there is another system of justice for those in positions of power, public or private, or those who possess sufficient wealth. And the reality is there is a lot of evidence to support that.

I have spent most of my adult life in the criminal justice system as a State prosecutor, a Federal prosecutor, a Federal judge, and a defense attorney. And the hard reality of life in America today is that the brand of justice you get can in some cases and in some places depend upon the color of your skin, the size of your bank account, and a lot of other factors that ought to be extraneous. If there is one thing this Senate ought to be doing it is everything it can to establish the principle that there is one standard of justice for all Americans, that every American, every person from the President on down is subject to the same rules, the same standards, the same laws, and that we do not have the Senate of the United States interfering in the judicial process for the benefit of persons who happen to hold high Government office.

It may well be that none of these persons will be indicted. If that is the decision of the independent counsel, then the process will have worked in that fashion. No one here should assume what is going to happen because no one here knows what is going to happen. I do not know if or when there will be indictments.

I am sure the chairman of our committee and the vice chairman of our committee who have devoted countless, thousands of hours to this effort know what is going to happen. So we ought not to assume that. We ought not to be intrigued in the judicial process. We ought not to be involving the Senate in a place where it should not be doing what it should not be doing, and further undermining respect for the system of justice in our society. Ours is an imperfect system. This will make it much more imperfect. Rejection of this resolution will say at least on this day and in this case that in America everybody does stand equal before the law, and everybody must be subject to the same process, and that no one, no matter what position they hold, is going to be exempt from the ordinary process of Government.

I thank you, Mr. President. I will just conclude by urging the Members of the Senate to overwhelmingly reject this amendment. I yield the floor.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I oppose the pending amendment as in my judgment, an unwarranted interference by legislative authority with a prosecutorial function. In our Government, Mr. President, there is a clear separation of powers. It is simply not the function of the legislative branch, after having established a criminal code, to direct or even suggest to the prosecutorial authorities what action should or should not be taken. That limitation applies to the judicial branch as well as to the legislative branch. Prosecutorial discretion is exclusively lodged in the district attorneys, the U.S. attorneys, or the independent counsel who has jurisdiction over the matter.

I served as district attorney of Philadelphia for some 8 years and as an assistant district attorney for a time and have seen efforts to intrude on prosecutorial discretion. They are characteristically rejected. Equity actions brought in court seeking to have the judges stop a prospective prosecution are uniformly rejected because even

the courts who have overall supervisory authority over matters within the courts will not take action to enjoin the prosecution before it is brought. The interest of justice is for anyone who may be prosecuted or served by the defenses available, to be treated by the adjudicators of fact through the normal procedures which protect the defendant's rights. It is unacceptable under our tradition to interfere in advance with that exercise of prosecutorial discretion.

Mr. President, there is a constitutional provision which prevents legislative action on a bill of attainder. When our Constitution was framed there was a specific direction which prevented legislative action in directing criminal prosecution where it was linked to a specific person, in contrast to British practice where there had been such action. The Founding Fathers made sure that the legislature would not intervene to say that a given individual ought to be prosecuted; it is one of the really fundamental freedoms that is very frequently overlooked because it has become such a matter of accepted practice. Of course, that is not dispositive of the converse where you say somebody should not be prosecuted. But I would suggest, Mr. President, that the same philosophy which keeps the Congress and the legislature out of directing prosecution would logically keep the legislative branch out of saying who should not be prosecuted. But the principle is well established that once the Criminal Code has been enacted, then individual cases are a matter of prosecutorial discretion and separation of power and not a legislative function.

Mr. President, if this amendment is defeated, there is a significant risk that some will interpret the negative implication to be present that the Senate intends or thinks that some people ought to be prosecuted. While this amendment does not name anyone on its face as a person whose prosecution should be rejected, there are certain prominent figures in the investigation by the select committees who come readily to mind, and there might be an inference that the Senate is encouraging prosecution of a certain individual. That would be very unfair and very unwarranted and not intended, but an implication which might well arise from the face of this resolution.

Mr. President, the resolution's call for the rejection of prosecution, unless the activities of the individual resulted in "clear personal and illegal financial gain," or "their perjury," is a statement far outside existing law. It is not necessary to state a crime that there be personal financial gain. The conduct may be criminal if there is gain for a third party or an illegal diversion of funds.

In the context of hasty consideration, this amendment would be a major modification of existing criminal law in a most unwarranted and unwise way.

The public policy factors which are an issue in this matter have very deep ramifications and ought not be the subject of a very sudden incursion by a surprise amendment where there is no notice to other Senators. I heard about it only because I monitored the proceedings through the television coverage.

This is much too complex a matter for a rush to judgment, as exists in the context of the amendment process. If there is to be some serious effort to impede the action of the independent counsel in some significant way, then it ought to be a matter for legislative hearings and for due deliberations, for a committe report, and for the deliberative process of prepared debate on the floor of the Senate.

In summary, there are very serious philosophical objections to proceeding in this manner, most fundamental of which is the traditional prosecutorial discretion afforded to whomever is in charge of the case, here the independent counsel, and the traditional rules, based on very sound policy, to maintain that separation of powers and not to allow interference with the appropriate discretion of a prosecutor.

Mr. RUDMAN. Mr. President, I was going to put in a quorum call, but if the Senator from Maryland seeks recognition, I will withhold that request.

Mr. SARBANES. I just have a couple of minutes.

Mr. RUDMAN. I do not have a time schedule, I say to my friend. I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Mr. SARBANES. Mr. President, I rise in opposition to the amendment.

I simply point out to the body that in terms of logic, if an amendment were offered directing that people who had appeared before the Senate Select Committee should be prosecuted, I assume that Members would take the floor in opposition to that proposition as an interference with the appropriate discretion that rests in the prosecutor—an intervention by the legislature in a matter into which they should not trespass.

However, this raises the same question from the other direction, and I submit that it is inappropriate for the legislature to intervene, to direct no prosecution, as it is to direct prosecution.

What this amendment fails to understand is the nature of the process we follow in this country in order to reach very basic decisions. It is not a legislative authority to decide who should or should not be prosecuted. That is a clear trespass by the legislative branch into an area which has been set aside for decision by others.

We proceed with the discretion placed in the prosecutor to determine whether a charge should be brought. The decision then, in the last analysis, will be made within our judicial system by a judge and a jury—if, in fact, a charge is brought. But for the legislative branch to be directed that no charge should be brought, or directing that a charge should be brought, is a trespass by the legislative branch.

So I think the amendment is fraught with danger. It does not recognize the proper allocation of authority under the constitutional scheme which we have adopted in this country and which has served us so well for two centuries. In fact, it underscores the importance of not being so determined to seek a particular substantive result that one is prepared to violate or trample upon the proper procedure for reaching decisions. That is at the heart of our constitutional system, that we have provided certain ways by which decisions are reached which we regard to be fair and equitable and just.

Of course, one of the fundamental premises on which we operate is that the legislative branch is not to direct whether or not prosecution should take place. We do not, by passing an edict here, either free someone of a possible prosecution or place someone into a prosecution. The logic of this amendment would do exactly that, and I hope that the Senate will reject the amendment.

Mr. ADAMS. Mr. President, I will be very brief. I simply want to echo what the Senator from Maryland and the Senator from Maine have said.

This is a fundamental question of a bill of attainder, and I hope we will not get into this kind of process—either saying a negative bill of attainder or a positive bill of attainder. As the Senator from Maryland said, we carefully divided that power away from the legislative branch to avoid this activity.

I support the position of the Senator from Hawaii and the Senator from New Hampshire.

Mr. KERRY. Mr. President, I rise to express my strong opposition to this dangerous amendment.

The Senate should never carve out exceptions in our criminal justice system to exculpate ex post facto individuals who might otherwise be convicted of crimes.

Equal justice for all means just that: Equal justice, not permitting prosecution for some people and prohibiting it for others.

To support this amendment would be to give credence to the point of view expressed by some at the NSC,

that sometimes its alright to go above the written law.

Rule of law has always been the first principle of American Government as far as domestic affairs go. As President Kennedy recognized, "law is the adhesive force of the cement of society, creating order out of chaos and coherence in place of anarchy * * * for one man to defy a law or court order he does not like is to invite others to defy those which they do not like, leading to a breakdown of all justice and order."

To the extent that any administration undermines respect for the law, it undermines the basis for government itself, indeed, for our very existence as a nation. It is hard to recall any time other than Watergate when this principle seemed as severely threatened as it was in the course of the NSC operations summarized as Iran/Contra.

For us to make legal for Oliver North and the others involved in the Iran/Contra scandal what would have been illegal for anyone else, would be to further the very injury to our Nation already threatened by the actions of Oliver North and his colleagues inside and outside the Government.

Mr. RUDMAN. Mr. President, I see no other Senator seeking recognition, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. RIEGLE). Without objection, it is so ordered.

Mr. REID. Mr. President, I ask unanimous consent that H.R. 2700, which is not the legislative matter before this body, be put over until tomorrow.

Mr. BYRD. Mr. President, I object to that.

The PRESIDING OFFICER. Objection is heard.

Mr. BYRD. Mr. President, if the Senator will allow the majority leader to take care of the program he will not be hurt.

Mr. REID. I am sorry. I misunderstood the leader. I thought he asked me to do that. I certainly apologize.

I withdraw my unanimous consent request and suggest the absence of a quorum.

The PRESIDING OFFICER. The request is withdrawn.

The clerk will call the roll.

The legislative clerk proceed to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorm call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. If I might ask the managers of the concurrent resolution that is before us, what is the status of things? Are we approaching a rollcall vote or are we not; and, if so, how soon?

Mr. RUDMAN. I would advise the leader that I believe we are ready for a vote, unless other Senators wish to speak. There do not appear to be any. Senator HELMS was called from the floor for other important business and asked we have a quorum call. I advised him that we are now ready to proceed.

It is my understanding, Mr. Leader, there is one other amendment that will require very brief debate and we then should be able to move to final passage of this resolution.

Mr. BYRD. Is it the plan to move to table the pending amendment?

Mr. RUDMAN. That is the intention of the managers of the concurrent resolution.

Mr. BYRD. I wonder if we could hear something from the distinguished Senator from North Carolina. I hesitate to proceed with a motion to table immediately unless he knows we are going to do that. Does he have that information?

Mr. RUDMAN. Mr. Leader, I would suggest that I now suggest the absence of a quorum and immediately notify the Senator of that.

Mr. BYRD. If the Senator will withhold just briefly.

Yes, I hope we can do that, because there is another measure that I had hoped and expected to try to take up this afternoon. But this quorum has been going on quite some time, and I hope we can move on.

I thank the distinguished Senator, and I yield the floor.

Mr. RUDMAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

The PRESIDING OFFICER (Mr. LEAHY). The Senator from North Carolina.

Mr. HELMS. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, the distinguished minority leader asked me to come to his office on a matter of some urgency. I apologize to the Senators for having taken substantially longer than I had intended.

Dealing with the subject at hand, I tried, from the minority leader's office to listen with one ear to the comments on the floor. I respect all Senators who have reservations about this amendment. I know they are sincere and I believe they are sincerely wrong.

Now, the legal encyclopedia, American Jurisprudence 2d, notes how prosecutorial discretion is understood. Let me read from volume 63A, section 24. It says:

> In other words, the duty to prosecute is not absolute, but qualified, requiring of the prosecuting attorney only the exercise of a sound discretion, which permits him to refrain from prosecuting whenever he, in good faith and without corrupt motives or influences, thinks that a prosecution would not serve the best interests of the state.

Well, that is the whole predicate for this amendment. I am raising the question by offering this amendment as to whether it is not in the absolute disinterest of the Government of the United States and the people of this country to drag this controversy out further. Of course there were mistakes made, mistakes that nobody in this Chamber would admit to being a participant in. But I do not know that any Senator would like to have his whole activities on any matter attacked with a fine-tooth comb such as occurred during the hearings, on national television. Really a television circus.

I heard one Senator, and I am not sure which one, say: We cannot interfere with another branch of Government. I am not suggesting that we do. All I am saying is that Senators individually, and I may be the only one voting for my amendment, but Senators individually have a right, and I think a duty at this point, to say enough is enough.

If Senators disagree with me and it is 99 to 1, it will not be the first time that JESSE HELMS has voted by himself. But I just feel strongly that Ollie North and others have been put through the wringer enough; particularly when it is fairly well and broadly acknowledged that they were doing what they thought was good for the country. Even if it turns out it may not have been good.

But the point is that they were being hamstrung. The President's policies were being interfered with—certainly he was receiving no cooperation. Aid to the freedom fighters was on again, off again, and on again. We have been up and down that road with respect to congressional interference with the freedom fighters in Angola. And finally, after years, it took the Senator from Idaho [Mr. SYMMS] to come up with an amendment to halt such interference.

So now we are not interfering with Jonas Savimbi. But we still have a hodgepodge of confusion down in Central America. I can understand how some of these people said: Well, we have got to help these freedom fighters any way we can. I do not think that they intended to violate the law. I think they intended to support the freedom fighters, with the Congress refusing to do so. So we are not interfering, with this amendment, with prosecutorial discretion. I thought I made that absolutely clear from the moment I offered the amendment. It

is a sense of the Congress, not dictation in any way nor to any degree. If anybody wants to read the amendment, they will see this to be clear.

Then I think I heard, on the squawk box back in the minority leader's office, something to the effect that all men are equal under the law. Of course. Absolutely. I agree.

But this statement, in this context, is irrelevant. As I just cited from American Jurisprudence 2d, it is well established that a prosecutor may drop a prosecution or not pursue one on the basis of the best interests of the state.

Then I heard, I think I heard correctly, a Senator speak at some length about violation of separation of powers. Not at all. Not at all. This is a sense of Congress that it is not in the national security interests of the United States. If that is not within the purview of the U.S. Senate, I do not know what is.

The issue is national security. The question is how far are we going to continue to denigrate the country? I mentioned Bill Moyers last night, an hour and a half of saying: America is wrong, America is dishonest, Roosevelt, Reagan, Churchill—he did not mention Patrick Henry. I do not know how he left him out. But not a mumbling word on the threat of tyranny hanging over this world today.

I simply do not understand what is so wrong about saying, "Look, enough is enough. Everybody ought to be satisfied that we are not going to have people running off and trying to do this, that, and the other." But I hope implicit in that is the fact that Congress will wake up and stop interfering with the constitutional duties and responsibilities of the President of the United States with respect to foreign policy.

We can rub salt in the wounds of the Arab States by extending this process, but what will that get us? The Soviets love it. They are sitting in the Kremlin saying, "Keep it up, keep it up." Because a main goal of the Soviet Union right now is to exploit the situation in the Persian Gulf, and to knock us from our leadership position in the Middle East. We are aiding and abetting this goal every day we further extend this Iran-Contra affair.

I just say, like my constituents in overwhelming numbers have said, "Enough is enough."

I understand there will be a motion to table my amendment, and that is fine. If no other Senator votes against tabling it, that is fine. Each Senator must speak for himself and act for himself.

I yield the floor, Mr. President.

Mr. INOUYE addressed the Chair.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Mr. President, I join in opposition to this amendment. Accordingly, I move to table the amendment. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on the motion to lay on the table amendment No. 1129.

The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Tennessee [Mr. GORE], the Senator from Hawaii [Mr. MATSUNAGA], and the Senator from Illinois [Mr. SIMON] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Missouri [Mr. BOND] and the Senator from Rhode Island [Mr. CHAFEE] are necessarily absent.

Mr. BYRD. Regular order, Mr. President.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 91, nays 4, as follows:

[Rollcall Vote No. 369 Leg.]

YEAS—91

Adams	Garn	Nickles
Armstrong	Glenn	Nunn
Baucus	Graham	Packwood
Bentsen	Gramm	Pell
Biden	Grassley	Pressler
Bingaman	Harkin	Proxmire
Boren	Hatfield	Pryor
Boschwitz	Heflin	Quayle
Bradley	Heinz	Reid
Breaux	Hollings	Riegle
Bumpers	Humphrey	Rockefeller
Burdick	Inouye	Roth
Byrd	Johnston	Rudman
Chiles	Karnes	Sanford
Cochran	Kassebaum	Sarbanes
Cohen	Kasten	Sasser
Conrad	Kennedy	Shelby
Cranston	Kerry	Simpson
D'Amato	Lautenberg	Specter
Danforth	Leahy	Stafford
Daschle	Levin	Stennis
DeConcini	Lugar	Stevens
Dixon	McCain	Thurmond
Dodd	McClure	Trible
Dole	McConnell	Wallop
Domenici	Melcher	Warner
Durenberger	Metzenbaum	Weicker
Evans	Mikulski	Wilson
Exon	Mitchell	Wirth
Ford	Moynihan	
Fowler	Murkowski	

NAYS—4

Hatch	Helms
Hecht	Symms

NOT VOTING—5

Bond	Gore	Simon
Chafee	Matsunaga	

So the motion to lay on the table the amendment (No. 1129) was agreed to.

Mr. RUDMAN. Mr. President, I move to reconsider the vote by which the motion to table was agreed to.

Mr. INOUYE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution, as amended.

The concurrent resolution (H. Con. Res. 195), as amended, was agreed to.

Mr. RUDMAN. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. INOUYE. I move to lay that motion on table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, I thank both Senator INOUYE and Senator RUDMAN.

The PRESIDING OFFICER. If the Senator will withhold, the Senate is not in order. The Senate is not in order. The Senate will be in order.

The distinguished Senator from West Virginia has a right to be heard.

Mr. BYRD. Mr. President, I thank the Chair.

AUTHORITY TO TAKE UP CONTINUING RESOLUTION ON TUESDAY NEXT

Mr. BYRD. Mr. President, the continuing resolution has come over from the House of Representatives. I have discussed this with the distinguished Republican leader. Mr. President, I ask unanimous consent that I may be authorized to proceed to take up the continuing resolution, which has just come over from the House, on next Tuesday.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, that will be the plan; to take up the continuing resolution on next Tuesday.

I thank the distinguished Republican leader. Otherwise, I would have to say that unless I can get consent to put that resolution directly on the calendar it would take me a couple of days because of rule XIV, and I think this is just a much preferable way. I thank the Republican leader.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. DOLE. Mr. President, let me thank the distinguished majority leader, and also the ranking Republican on the Appropriations Committee, Senator HATFIELD, and other Senators who asked to be notified—Senator ARMSTRONG, Senator EVANS, Senator GRAMM, and Senator MCCLURE.

Mr. BYRD. Mr. President, anent the request I made in the order that was entered concerning the continuing resolution, I ask unanimous consent that, notwithstanding the fact that cloture may have been invoked prior to that time, the impact of rule XXII have no effect whatsoever on the order that was entered, that the continuing resolution may be brought up on Tuesday, and that the Senate may proceed with it until it is disposed of.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

EXECUTIVE CALENDAR

Mr. BYRD. Mr. President, I inquire of the Republican leader as to whether or not the following orders on the Executive Calendar have been cleared on that side of the aisle:

Under the Department of State, on page 2, Calendar Order No. 382; and on page 3, Calendar Order Nos. 383, 384;

Under Judiciary, Calendar Order Nos. 387, 388, 389, and 390;

On page 4, all calendar orders on that page; 391, 392, 393, 394, 395, and 396;

On page 5, under the Department of State, Calendar Order Nos. 397 and 398;

Under the U.S. International Development Cooperation Agency, Calendar Order No. 400;

Under United Nations on page 5, Calendar Order No. 401;

And, on page 6, under United Nations, all calendar orders numbered 403 through 409 inclusive.

That would be 24 nominations.

Mr. DOLE. Mr. President, if the majority leader will yield, I will indicate that those have been cleared on our side.

Mr. BYRD. Mr. President, I thank the distinguished Republican leader.

EXECUTIVE SESSION

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session, that the aforementioned calendar orders be considered en bloc, confirmed en bloc, that the President be immediately notified of the confirmation of the nominees, that the motions to reconsider en bloc be laid on the table.

The PRESIDING OFFICER. Is there objection?

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

The nominations confirmed are as follows:

DEPARTMENT OF STATE

William Henry Houston III, of Mississippi, for the rank of Ambassador during his tenure of service as U.S. Negotiator on Textile Matters.

Deane Roesch Hinton, of Illinois, a career member of the Senior Foreign Service, with the personal rank of career Ambassador, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Costa Rica.

Richard C. Howland, of Maryland, a career member of the Senior Foreign Service, class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Suriname.

THE JUDICIARY

David G. Larimer, of New York, to be U.S. district judge for the western district of new York.

Ernest C. Torres, of Rhode Island, to be U.S. district judge for the district of Rhode Island.

William L. Standish, of Pennsylvania, to be U.S. district judge for the western district of Pennsylvania.

James A. Parker, of New Mexico, to be U.S. district judge for the district of New Mexico.

William L. Dwyer, of Washington, to be U.S. district judge for the western district of Washington.

DEPARTMENT OF JUSTICE

Lawrence J. Siskind, of California, to be special counsel for Immigration-Related Unfair Employment Practices for a term of 4 years.

DEPARTMENT OF COMMERCE

Jeffrey M. Samuels, of Virginia, to be an Assistant Commissioner of Patents and Trademarks.

THE JUDICIARY

Laurence J. Whalen, of Oklahoma, to be a judge of the U.S. Tax Court for a term expiring 15 years after he takes office.

Robert P. Ruwe, of Virginia, to be a judge of the U.S. Tax Court for a term expiring 15 years after he takes office.

DEPARTMENT OF STATE

James B. Moran, of Virginia, a career member of the Senior Foreign Service, class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Seychelles.

David H. Shinn, of Washington, a career Member of the Senior Foreign Service, class of counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Burkina Faso.

Robert Maxwell Pringle, of Virginia, a career member of the Senior Foreign Service, class of counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Mali.

U.S. INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

M. Alan Woods, of the District of Columbia, to be Administrator of the Agency for International Development.

UNITED NATIONS

Doug Bereuter, U.S. Representative from the State of Nebraska, to be a Representative of the United States of America to the 42d session of the General Assembly of the United Nations.

George W. Crockett, Jr., U.S. representative from the State of Michigan, to be a representative of the United States of America to the 42d session of the General Assembly of the United Nations.

Herbert Stuart Okun, of the District of Columbia, to be a Representative of the United States of America to the 42d session of the General Assembly of the United Nations.

Vernon A. Walters, of Florida, to be a representative of the United States of America to the 42d session of the General Assembly of the United Nations.

Patricia Mary Byrne, of Ohio, to be an alternate representative of the United States of America to the 42d session of the General Assembly of the United Nations.

Hugh Montgomery, of Virginia, to be alternate representative of the United States of America to the 42d session of the General Assembly of the United Nations.

Lester B. Korn, of California, to be an alternate representative of the United States of America to the 42d session of the General Assembly of the United Nations.

William W. Treat, of New Hampshire, to be an alternate representative of the United States of America to the 42d session of the General Assembly of the United Nations.

NOMINATION OF WILLIAM L. DWYER

Mr. HELMS. Mr. President, I have been aware for quite some time of the controversy surrounding the nomination of William Dwyer, who has been nominated to be a Federal district court judge in the State of Washington. It wasn't until his nomination was placed on the Executive Calendar that I took a more indepth look at the source of that controversy—a legal opinion given in 1985 by Mr. Dwyer of the explicit sex manual for children titled "Show Me."

Mr. President, this book is a repulsive collection of page after page showing nude children and adults performing various sexual acts. It was produced in West Germany in the early 1970's as a sex education manual for children. In this country, it is advertised in magazines such as Hustler as "the last word in photographically explicit sex manuals for children."

I must say that when I looked through this book, I was so disturbed by it and by the knowledge that Mr. Dwyer once gave a legal opinion that it does not violate child pornography laws that I placed a hold on the nomination. Last night I had an opportunity to read through the approximately 300 pages of hearings that were held by the Judiciary Committee on the nomination. While I can't honestly say that I support this nomination 100 percent, I must admit that many of my initial concerns were diminished—and in fact, I was very favorably impressed—by some of the evidence that was presented on Mr. Dwyer's behalf.

Mr. President, during the hearings, Mr. Dwyer's opinions, both legal and personal, were thoroughly explored by our distinguished colleagues on the committee, including Senators LEAHY, THURMOND, GRASSLEY, and SIMPSON. There were various other witnesses testifying about Mr. Dwyer—some supporting, some opposing his nomination.

I read at length about the situation in 1985, when pressure was being placed on the Seattle Public Library to stop carrying this book. The library retained Mr. Dwyer to give them a legal opinion as to whether they would be violating any law by keeping the book in their collection. The question, as Mr. Dwyer phrased it, was, "if the matter were tested in a court of law, would a court find that the library was committing a crime by continuing to keep the book." According to Mr. Dwyer, he and an associate in his firm

determined that the answer was probably "no."

Mr. President, that raised a question about this man's views on pornography, particularly child pornography, and raised serious doubts in my mind as to his fitness to sit as a judge in cases involving child pornography. It was also pointed out that Mr. Dwyer was an active member of the American Civil Liberties Union—a fact which also raised questions in my mind about how objective and fair minded this man could be on the Federal bench.

As I continued through the transcript, I learned a few more interesting facts about Mr. Dwyer. He explained to Senator SIMPSON that he had joined the ACLU in the late 1950's, was a member of the local board from about 1959 to 1961, but ceased his membership in the late 1960's or early 1970's. He stated that he ceased his membership because he found himself in disagreement with them often enough that he was uncomfortable being a member.

Most impressive to me was the testimony of Mr. David Crosby, who started a group in Seattle called Parents in Arms. Mr. Crosby described a youth nightclub called the Monastery in Seattle which was run by a convicted felon and admitted homosexual. It became a hangout for runaway youths, drug addicts, and pedophiles and was an open market for drugs and sex. On a regular basis, kids were being taken out of there with drug overdoses.

Mr. Crosby had a direct interest in the Monastery: His 14-year-old son had been enticed to start frequenting this place and eventually got involved in drugs and dropped out of school. When Mr. Crosby turned to the police for help in closing the Monastery, they explained that there were political problems involved. As Mr. Crosby explained, when the police once raided the club and seized the membership list, the homosexual community and the ACLU complained to the city's mayor. Mr. Crosby was left helpess.

He turned to Mr. Dwyer to form a group called Parents in Arms to close down the Monastery once and for all. Mr. Dwyer agreed to help the group on a pro bono basis. To make a long story short, Mr. Crosby and Mr. Dwyer, despite threats on the lives, persisted with their group and ultimately closed down the Monastery.

Mr. President, there was one particular part of that story which made an especially strong impression on me. According to Mr. Crosby, at his first late night meeting with Mr. Dwyer, the first time they had met—and on subsequent evenings—the two of them walked the streets of Seattle looking for Mr. Crosby's 14-year-old son.

Also important to me was the testimony from the chief of staff of the King County prosecuting attorney's office, in Washington. He described his boss, the elected prosecutor, as having a national reputation for his expertise and innovation in the area of prosecution of cases of child sexual abuse and exploitation.

The chief of staff stated that Mr. Dwyer had been a constant supporter of the prosecutor's efforts to fight child sexual abuse in their community. The chief of staff further explained that the prosecutor's office agreed with Mr. Dwyer's legal opinion and did not feel that they could successfully prosecute the library in this limited situation.

Mr. President, throughout the hearing, it became clear to me that Mr. Dwyer and I would probably not agree on a lot of political and philosophical questions. To be perfectly honest, I think that he is politically and philosophically more liberal than would be my ideal candidate for the Federal bench.

But whatever differences I may have with Mr. Dwyer, the story related by Mr. Crosby told me a lot about the man. There were other issues discussed during the hearing. For example, Mr. Dwyer wrote a book titled "The Goldmark Case: An American Libel Trial." In this book, he was very critical of what he described during the 1960's as the "far right," which according to Mr. Dwyer, included Senator THURMOND, Ronald Reagan, and several former admirals and generals. I certainly did not find this information reassuring.

Mr. President, in the final analysis, I feel that I must rely on Mr. Dwyer's assurances that he will be fair and impartial if placed on the Federal bench and exercise judicial restraint in his interpretation of the law. I trust his statements that he personally finds the book, "Show Me," repulsive and would not have it in his home. Finally, he made repeated assurances that he is fully supportive of child pornography laws, believes them to be constitutional, and feels they should be enforced.

THE DWYER NOMINATION

Mr. EVANS. Mr. President, it is with a profound sense of relief, a strong feeling of elation, and a great degree of pride that I note the confirmation of William L. Dwyer of Seattle to be a U.S. district judge for the western district of Washington. He will be a superlative addition to the Federal bench.

Today we have come to the end of a long and tortured journey. Former Senator Gorton and I first rcommended that that the President nominate Bill to be district judge nearly 20 months ago. In the interim, he has been nominated, his initial nomination lapsed, and he has been renominated by the President. He has appeared at two separate, lengthy confirmation hearings before the Judiciary Committee. He now will be a Federal judge.

Mr. President, during this year, which marks the 200th anniversary of our Constitution, the people of the United States have demonstrated in many ways their commitment to and appreciation for the ideals manifest in that document and the structure of government developed to help ensure that those ideals will for all time continue to animate our public policies. Fundamental to that structure is an independent judiciary.

Accordingly, Federal judges play a central role in our system. By interpreting and applying the law to the facts in numerous individual cases, they help flesh out the broader framework of statutory law and assist in refining the common law. Therefore, it is imperative that we appoint to the Federal bench people who not only are gifted intellectually and beyond reproach ethically but who are especially sensitive to the profound influence of the law in our society.

Bill Dwyer is a sparkling example of the type of person whom we should seek for the Federal judiciary. He has a keen intellect and is of exceptionally sound character. But perhaps most outstanding is his basic humanity.

The Judiciary Committee hearing record is replete with testimonials from people whose lives have been touched by Bill Dwyer. From the record we learn that Bill has spent countless hours walking the Seattle streets with distraught parents looking for their children. We learn that he has given his time and energy to help close down a teen nightclub notorious as a hangout for drug dealers. We learn that has contributed countless additional time and money to help when help was sought. We learn that while he is compassionate he also is unafraid to tackle controversial, difficult issues. And we learn most of this from people other than Bill because he is too modest to tell these stories himself.

I want to thank all the people who have helped us in our efforts to obtain confirmation. Members and staff of the Judiciary Committee have worked long hours on this nomination even as they were spending a great deal of time with other matters. Witnesses who testified on Bill's behalf gave freely of their time and energy and helped us blow away the smoke generated by opponents so that all could see the real Bill Dwyer. Finally, I want to thank Bill, for his patience and good humor and I wish him God speed in his new job.

WILLIAM DWYER

Mr. ADAMS. Mr. President, as a former U.S. attorney of the western district of Washington and a member of that bar for 35 years, it gives me great pleasure to stand before the U.S.

Senate and recommend confirmation of William L. Dwyer as a U.S. district judge for the western district of Washington.

I have personally known Mr. Dwyer and his wife Vasiliky for over 30 years and can say from personal experience that he is one of the most honorable, fairminded individuals that I know, as well as a distinguished, experienced trial lawyer.

It is for this reason that I have joined with Senator EVANS in our complete and unreserved support of Bill Dwyer. He has distinguished himself as a lawyer of extraordinary talent and intelligence and a man of scupulous integrity, honesty, and courage. I cannot think of anyone else who is better suited to fill this judicial vacancy.

I should note as well that Bill Dwyer has been rated "exceptionally well qualified" by the ABA, their very highest rating.

Mr. President, there have been two hearings before the Judiciary Committee to consider William Dwyer's qualifications for the Federal bench. In particular, questions were raised about a legal opinion that Mr. Dwyer rendered to the Seattle Public Library Board concerning retention by the library of a sex education book, and about statements that Mr. Dwyer made in a book that he wrote entitled "The Goldmark Case."

Mr. President, the Judiciary Committee examined these issues thoroughly in over 7 hours of testimony by ten witnesses in addition to Mr. Dwyer, myself and Senator EVANS. The committee rejected any objection to Mr. Dwyer and unanimously approved the nomination. I would like to spend some time, however, explaining for my colleagues the circumstances of these two issues.

In 1985, the Seattle Public Library received a complaint about a book in their collection, a sex education book with the title "Show Me!" Bill Dwyer was retained by the Seattle Library Board to render a legal opinion on a single, narrow issue. As described by the chairman of the board of trustees of the library, who testified before the Judiciary Committee, the question asked was "If the issue was tested in court, would the retention of Show Me! by the Seattle Public Library be found to be in contravention of any State or Federal statute."

Let me read part of a statement on this issue made by the Library Board:

> In answering the Board's legal questions, Mr. Dwyer mentioned his strong support for the laws against child pornography, and said that they represented a great improvement in the legal protection of children. The advise he gave was conscientious, faithful to the law, and correct.

The board also stated:

> It was Mr. Dwyer's reputation as a defender of the rights of children and disadvantaged persons, as well as for outstanding legal ability, that led us to ask for his help. He performed a public service in advising the library. In the process, he demonstrated a clear grasp of the law and a sensitive understanding of the interests of all concerned.

Mr. President, let me just say a few words about Mr. Dwyer's book, "The Goldmark Case." The book received the American Bar Association's Gavel Award and the Washington State Governor's Award for Writers. It was written in an evenhanded and factual manner and demonstrates Mr. Dwyer's respect and tolerance for all political viewpoints. I would like to make one last point on these issues. When Mr. Dwyer was asked in the hearings whether he would have reconsidered taking the library board's inquiry or whether he would have rewritten parts of his book had he known the problems they would cause for him now, Mr. Dwyer's answer to the committee is further evidence of his courage and convictions. He said:

> I've thought about that, but as soon as you stop taking on legal matters out of fear, you might as well hang it up and stop practicing law.

Bill Dwyer's qualifications to be a district court judge are amply demonstrated by the remarkably broad range of community leaders who have endorsed this nomination—Democrats and Republicans, and Independents alike. Law enforcement leaders including the King County prosecuting attorney and the Seattle chief of police support his nomination, as do the Washington State Bar Association, the Seattle-King County Bar Association and the Federal Bar Association for the western district of Washington.

The dean and 28 professors at the University of Washington School of Law have written that Mr. Dwyer "is the very best qualified person in Washington to be appointed to a Federal trial court."

This support is not at all surprising, considering Mr. Dwyer's record. He is a renowned trial attorney with 30 years of experience in a broad array of legal areas. He is an acknowledged expert in antitrust matters and first amendment litigation. He has tried both large and small cases in many other fields as well, including torts, contracts, domestic relations, and construction law.

In reviewing Mr. Dwyer's career, what really strikes me is his devotion to the American legal system, and the jury system in particular. This dedication is shown in his practice and in his extra legal activities. From 1982 to 1985, Mr. Dwyer was a member of the board of governors of the Washington State Bar Association, and he served a term as president of the Seattle-King County Bar Association in 1979–80.

He has taught law as an adjunct professor of law at the University of Washington School of Law and he is currently a member of that school's visiting committee. Also, he continues his teaching through continuing legal education programs in the State.

Perhaps more than any other activity, though, Bill Dwyer demonstrates his qualities of compassion and commitment through his pro bono work. While he was president of the bar association, he was instrumental in establishing the Volunteer Legal Services Program, through which lawyers in King County donate legal advise and representation to persons who need help but cannot afford it.

Mr. Dwyer has also handled many pro bono cases himself. These have included cases involving the public interest, claims of infringement of constitutional rights and representing unpopular criminal defendants.

The Judiciary Committee has reported this nomination with a unanimous recommendation. I urge the full Senate to confirm this outstanding individual to the Federal bench.

JAMES A. PARKER TO THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW MEXICO

Mr. DOMENICI. Mr. President, I rise to express my support for the confirmation of the nomination of James A. Parker to be a U.S. District Court Judge for the District of New Mexico.

Jim Parker is a man of superior ability and qualifications. I believe that he will serve the Nation with great distinction. I encourage all of my colleagues to lend their enthusiastic support to this nomination.

New Mexico is blessed with many well-qualified and distinguished attorneys. When Judge Howard C. Bratton announced his intention earlier this year to assume senior status, I consulted with members of the legal community in New Mexico. Out of those discussions, came a list of nine attorneys in New Mexico who, through their professional expertise, personal integrity, and commitment to justice, have demonstrated that they possess the qualifications to serve as a Federal judge. I submitted the list to the President for his consideration.

It is a testament to the outstanding qualifications of Jim Parker that President Reagan selected him from among this very distinguished group to fill this position.

Jim Parker will make an excellent Federal judge. This is not just my judgment or the judgment of the President. The American Bar Association evaluated Jim Parker's credentials and proclaimed him to be "well qualified" to serve as a Federal district court judge. The Senate Judiciary Committee conducted a very thorough investigation of Jim Parker's qualfications, competence, integrity, and temperament, as they do for all nominees, and based on that investigation, unanimously approved the nomination.

In short, everyone that has reviewed Jim Parker's credentials has determined that he will be an excellent judge.

Jim Parker graduated from Rice University in 1959 with a degree in mechanical engineering. He went on to the University of Texas School of Law, where he graduated first in his class in 1962. At the University of Texas, he was an editor of the law review, president of the Phi Delta Phi Legal Fraternity, and a member of the Order of the Coif.

While in law school, Jim Parker worked for the Texas State Legislature as a legislative draftsman. Immediately after graduating, he joined the law firm of Modrall, Sperling, Roehl, Harris & Sisk in Albuquerque. He has remained there for the past 25 years and is now a partner and director of the firm.

Jim Parker has had a diverse practice. He has participated in cases involving administrative, banking, bankruptcy, corporate, criminal defense, personal injury, professional malpractice, real property, and wills and estates law. In recent years, he has specialized in civil litigation in both the State and Federal courts. His broad expertise in the practice of law, particularly his trial experience, gives him a solid background to serve on the U.S. District Court, the Federal trial court.

Throughout his career, Jim Parker has demonstrated a commitment to justice and the legal system by his participation in a wide variety of professional activities. In addition to performing pro bono legal services for underprivileged individuals, Jim Parker is a member of the American, New Mexico, Texas, and Albuquerque Bar Associations, the American Board of Trial Advocates, the American Judicature Society, the Tenth Circuit Judicial Conference, and the Albuquerque Lawyers Club. He is a past president of the New Mexico Chapter of the American Board of Trial Advocates and is now a National Director of the ABOTA.

He also currently serves on the New Mexico Bar Association Commission on Professionalism, the Joint Liaison Committee of the New Mexico Bar Association and the New Mexico Medical Society, the New Mexico Medical-Legal Malpractice Screening Panel, and the New Mexico State Bar Foundation. He has previously served on the New Mexico Board of Bar Commissioners, the Albuquerque Bar Association Judicial Selection Committee, the New Mexico Supreme Court Task Forces on Lawyer Advertising and the Legal Profession, and a variety of other professional committees.

Jim Parker has also engaged in a number of civic activities, including the Albuquerque Goals Committee, the United Way, the United Community Fund, the University of New Mexico Presidential Scholarship Fund, the Rice University Alumni Association, and the University of Texas Law School Association. His activities on behalf of his profession and his community demonstrate Jim Parker's dedication to service.

For the past 27 years Jim Parker has been married to Florence Parker. Mrs. Parker is self-employed as a fashion coordinator. The Parkers have two children, Roger, the president of an oil and gas development company in Denver, and Pamela, a graduate student at Wake Forest University.

Mr. President, I have listed the qualifications and experience of Jim Parker, but this is not the sum of the man. I have known him for many years. He is an excellent attorney, an exemplary citizen, and a man of integrity. He is a family man who has his feet well-planted on the ground and who is guided by common sense. The broad-based support from the legal community for Jim Parker's appointment is a tribute to his qualifications.

I am confident that Jim Parker will prove to be an excellent addition to our Federal judiciary. I urge the Senate to act favorably on this nomination.

LEGISLATIVE SESSION

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. DOLE. Mr. President, if the majority leader will yield, I should like to make an inquiry with reference to Calendar No. 386, the nomination of Frank L. McNamara, Jr., of Massachusetts, to be U.S. attorney.

Mr. BYRD. We are agreeable to doing that, if the distinguished Republican leader would like to.

Mr. DOLE. We would like to do that.

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the nomination of Frank L. McNamara, Jr.

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER (Mr. LAUTENBERG). The nomination will be stated.

DEPARTMENT OF JUSTICE

The assistant legislative clerk read the nomination of Frank L. McNamara, Jr., of Massachusetts, to be U.S. attorney for the district of Massachusetts for the term of 4 years.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. BYRD. Mr. President, I ask that the President be immediately notified of the confirmation of the nomination.

The PRESIDING OFFICER. The President will be so notified.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

LEGISLATIVE

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

There being no objection, the Senate resumed the consideration of legislative business.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, it is the plan to take up the railroad bill, Calendar Order No. 306, S. 1539, but it will not be possible to take it up for about 45 minutes to an hour.

So that the Senate might utilize its time to the best, therefore, the Senators who are debating the energy and water appropriation bill may wish to proceed with debate thereon; and then when certain Senators are free to proceed with the railroad bill, S. 1539, the majority leader will attempt to proceed to do that. The order has been entered whereby the majority leader is authorized to do it after consultation with the minority leader, so there will be no problem in that respect.

If the distinguished Senator from Washington or others would like to proceed to debate the energy and water appropriation bill, I yield the floor.

Mr. ADAMS. Mr. President, I thank the majority leader for his courtesy.

I inquire of the majority leader: I believe he indicated that the railway safety bill is expected this afternoon, and I inquire as to what the majority leader wants to do. We will be available, of course, to continue on tomorrow. Does he have other matters he would like to proceed with in the morning?

We would be prepared to set aside this matter to move to other business in the morning, if we could know what the plans of the majority leader might be.

Mr. BYRD. I would hope that on tomorrow we could continue with debate on the energy and water bill and also take up any other matters that have been cleared for action.

Mr. ADAMS. I thank the majority leader. We will prepare in the morning to continue with the debate, and perhaps there will be an opportunity in the morning to indicate other matters

that we might anticipate, so that we will know whom to expect.

Mr. BYRD. I should utter a caveat, however.

For the moment, I do not know of other business that might be taken up. I hope that there will be other business; but in the event there is not, the Senate then will proceed with debate on the energy and water appropriation bill. There could be votes thereon. Amendments are in order, and there could be action on such. Motion might be made.

So I would say to all Senators that they might expect rollcall votes tomorrow.

Mr. ADAMS. I thank the majority leader. It is my understanding from the unanimous-consent request that on Tuesday next, after the vote on cloture, the majority leader's intention is to move to the continuing resolution at that point, for whatever period of time is required.

Mr. BYRD. The Senator is precisely correct.

Mr. ADAMS. I appreciate that. I thank the majority leader for his courtesy.

ENERGY AND WATER DEVELOPMENT APPROPRIATION ACT, 1988

The Senate continued with the consideration of the bill (H.R. 2700).

Mr. HOLLINGS. Mr. President, the Senate voted yesterday to table an amendment to the energy and water appropriations bill by the Senator from Washington, Senator ADAMS, and the Senator from Nevada, Senator REID. I supported their amendment because a portion of the nuclear waste legislation contained in this appropriations bill is a mistake.

I strongly support most of the provisions of H.R. 2700. Regrettably, however, this otherwise sound legislation is carrying a monkey on its back, a monkey that the Senate would be well advised to strip off. I am speaking of the text of S. 1668—requiring the construction of temporary nuclear waste storage facilities—which was unwisely incorporated into H.R. 2700.

Mr. Presidnet, politicians live by a tried-and-true maxim: Never put off until tomorrow a sensitive political decision you can put off until next year—or, better yet, until the next decade. The provisions of H.R. 2700 authorizing temporary nuclear storage facilities are a classic illustration of this old political rule—which would be just fine if the price tag were not $2 billion.

Permit me a few words of background. In the Appropriations Committee, earlier this year, I voted—with major reservations—to support Senator JOHNSTON's nuclear waste proposals. I supported the Senator's effort to move the process forward, and I hoped that the more ill-considered and wasteful elements of his legislation would be changed. I was wrong.

Bear in mind, when Congress passed the Nuclear Waste Policy Act in 1982, we expected it to set in motion a process that would be at once technically sound and politically fair. We expected that act to cut through years of distrust and failure, and pave the way for construction of one, and eventually two, national repositories for the permanent burial of high-level nuclear waste. The Nation badly needs such a permanent repository. The temporary storage of spent fuel at reactor sites is safe in the short run but hardly desirable in the long run.

Unfortunately, the high hopes created by the 1982 act have been dashed. Distrust of the Department of Energy's nuclear waste program is at an all-time high. With good reason, people have concluded that candidate repository sites have been selected or dropped for reasons having more to do with politics than geology. Just ask our colleagues from Washington State, Nevada, and Texas—the three candidates for the first repository. Their constituents have zero confidence in the Energy Department. The opposition has dug in its heels, and the entire high-level waste program is at a standstill.

It is imperative that we jump start the national nuclear waste program. We need to get it moving again—especially the effort to build a permanent repository. And this is exactly why I oppose the provision in H.R. 2700 to build temporary storage facilities. Such facilities would be grotesquely expensive. They would increase the threat of a nuclear accident. And they would guarantee further delay and obstructionism in the effort to build permanent sites.

In 1986, the Energy Department recommended building such an MRS facility in Tennessee, but the Volunteer State has been less than obliging. And for good reason. By any objective standard, the technical arguments for an MRS have never been compelling.

The Energy Department attempts to justify an MRS as a central packaging and transportation center. But the fact is that such a facility would increase transportation, not decrease it, since every spend fuel shipment would be transported twice—once to the MRS, and again from the MRS to the permanent repository. A major study by the University of Tennessee determined that an MRS option does not reduce transportation impacts and risks over a non-MRS option. Worst of all, the MRS option would cost approximately $2 billion more than the non-MRS alternative.

Proponents claim that we need an MRS as a backup facility to take the Nation's spend fuel in case the permanent repository program remains stalled. But surely this is the worst reason for building an MRS. It would remove all sense of pressure and urgency to move forward with a permanent facility.

Give the bureaucrats this cut-and-paste alternative and—I guarantee you—they will declare victory and withdraw from the fight. The State that hosts the MRS will be left holding the bag.

Mr. President, over the years, South Carolina has borne more than its share of the Nation's nuclear burden. We are savvy to the ways of the Energy Department. And we are under no delusions: We know that our State is on the Department's short list of likely MRS sites. I look at South Carolina and see beautiful tourist beaches, fertile farm land, and unspoiled pine forests. The Energy Department looks at South Carolina and has visions of glowing nuclear dumps and 16-wheelers hauling spent plutonium up and down I–95.

Mr. President, I certainly don't want to discourage the Senator from Louisiana from inviting an MRS into his State. The Energy Department is offering a $50 million bounty to any State willing to take the plunge. But a word of warning: We South Carolinians know that temporary storage can quickly become indefinite or semipermanent storage. The temptation to focus on short-term half-measures is simply too great. Accordingly, instead of deceiving ourselves that interim facilities can help, we should keep our eye and efforts on the ultimate goal: the construction of a safe, permanent, underground repository.

There can be no question that the MRS option would sap what remains of the will to build that permanent site. By diverting scarce Federal money and political capital to MRS, we would deal a deathblow to the permanent repository.

In the Appropriations Committee, the Senator from Louisiana and I agreed on report language regarding possible additional MRS facilities beyond the first one. I had hoped that futher discussion would lead to changes in the provisions regarding that first MRS facility. But we have been unable to work out any such changes.

In the meantime, the Environment Committee has reported nuclear waste provisions as part of its reconciliation package. The MRS language in the environment bill, while not perfect, is far superior to the proposal before us now. By saying that no MRS facility may actually receive waste until construction of a permanent repository is authorized, the Environment language at least provides assurances that an MRS will not become the Nation's de facto permanent wastesite. Regrettably, the Energy Committee language

before us does not even provide that assurance.

For these various reasons, Mr. President, I oppose the Energy Committee's MRS provisions now included in the energy and water development appropriations bill and will continue to work to change them.

HIGH-LEVEL NUCLEAR WASTE

Mr. MITCHELL. Mr. President, the two sites in Maine currently under review by the Department of Energy [DOE] are obviously unsuitable as potential repository sites. This is clear to everyone except DOE. Legislation is needed to prevent DOE from pursuing this ill-advised course of action. The pending legislation, including an amendment I and Senator COHEN proposed, redirects the program to avoid this problem.

I am therefore pleased that this amendment is acceptable. This amendment provides new safeguards and additional assurances that DOE will no longer consider Maine as a potentially acceptable site for a second nuclear waste repository.

A second site is not necessary. We must reduce Federal expenditures where possible. Canceling the second repository saves the ratepayers of the country billions of dollars. Suspension of the second site is an essential component of the underlying bill.

The amendment also cancels U.S. funding for research into granite as a possible place for a wastesite. The second round sites in the Northeast, much as Maine and the Midwest, are all granite sites. If we suspend the seach for a second site, there is no reason to spend millions of Federal dollars on research for a site that will not be located in granite.

Over the next 3 years, the Department of Energy proposed to spend $30 million on granite research. The amendment requires DOE within 6 months to terminate all funding for such research. This includes funding for the Underground Research Laboratory, a joint United States-Canadian project in which a deep shaft was being sunk into Canadian granite. Such activities are no longer relevant to the U.S. Nuclear Waste Program.

The bill before us suspends work on the second round for at least 20 years. In the event that, in the next century, DOE finds each of the current first round sites unacceptable, a possibility that is highly remote, we have provided additional assurances that any future search for a granite repository must consider additional factors.

These factors are important to Maine. Under this amendment, DOE must now consider seasonal fluctuations in population. The current law requires consideration of population density, but DOE refuses to acknowledge that the population of the Sebago Lake region in Maine is considerably higher in the summer than in the winter. Under this amendment to consider such population fluctuations as a basis for disqualification.

Should DOE in the next century ever consider granite sites, the agency would also have to consider proximity to public drinking water supplies, particularly those of metropolitan areas. Portland, ME should have its drinking water supplies protected. Under this amendment, DOE would be required to consider this factor.

Finally, DOE is required under this amendment to consider the impact site characterization or site selection would have on lands owned by Indians or placed in trust by the Federal Government for Indian tribes. Lands owned by such tribes or held in trust by the Federal Government for such tribes cannot reasonably be used for a dumping ground for our nuclear waste. To do so would be to violate the fiduciary duty of the Federal Government to the tribes. Had these factors been considered last year, the Maine sites would have been disqualified.

While keeping DOE out of Maine is important, it is clear that additional changes need to be made in the Nuclear Waste Program. The major criticism of DOE's implementation of the Nuclear Waste Policy Act is that the agency has not been thorough or objective. As a result, the public does not trust the agency.

To counter this criticism, this amendment requires DOE to enter into a contract with the National Academy of Sciences to create an oversight board. This board will assess DOE's activities and publish annual reports. This board is intended to provide an independent, technical review of DOE actions.

The proposal also requires DOE to conduct additional surface research at the sites not selected by characterization for a first repository. This will provide needed additional data on these sites, and will minimize the disruption of the program should the site selected for characterization be deemed unsuitable.

Last of all, the amendment requires EPA to promulgate revised ground water protection standards by January 1, 1990. These standards were struck down recently by the First Circuit Court of Appeals.

These changes represent significant improvements in the crippled nuclear waste program.

Mr. COHEN. Mr. President, I appreciate the efforts of the Senator from Louisiana to modify the Committee's amendment to reflect some of the concerns I share with my colleague from Maine, Senator MITCHELL, and others, about the need for greater environmental protection during the Department of Energy's search for a nuclear waste repository.

I am also pleased that the Appropriations and Energy Committees have voted to put off a search for a second repository in the east for at least 20 years. The legislation before us today requires that, between the years 2007 and 2010, the DOE is to report to Congress on the need for a second repository, and Congress will then take the Department's recommendations under consideration. This is the most sensible course, and I strongly support these provisions of the Committee's bill.

It has been clear for the past 2 years that the waste generation projections upon which the 1982 Nuclear Waste Policy Act was based are no longer accurate. The DOE has revised the waste generation estimates and now states that we will not need a second repository, even with the 70,000 metric ton cap on the first repository, until at least the year 2020. While I still question the need for the 70,000 ton cap, I believe the determination that a second site is not now necessary and in fact should be studied is a good one that reflects a realistic assessment of our waste projections.

The additional revisions submitted by Senator MITCHELL and me address the need to improve the overight of DOE activities during the site selection and characterization process, as well as to ensure that the DOE will take into account important factors that affect the health and safety of our citizens.

First, we require that DOE conduct additional surface study at the sites not chosen as the preferred site for the first respository. This is to ensure that, should the preferred site not need the licensing requirements established by the Nuclear Regulatory Commission, there will be available to the DOE sufficient information to determine the suitability of alternative sites.

Second, we require the Environmental Protection Agency to promulgate final regulations governing the protection of ground water from hazards that might stem from the characterization of a site as a waste repository. The agency's existing regulations have been struck down by a Federal court and we believe it is important that these crucial guidelines be ready before the DOE makes its final selection.

Third, we require the phase-out, within a 6-month period, of DOE's research into granite formations. Since the second site search, which is investigating granite-based sites only, has been suspended in this legislation, we see no need for the DOE to conduct this research at this time.

Fourth, we require the establishment of a National Academy of Sciences oversight body that is authorized to review DOE decisions and actions in characterizing and selecting a site for the waste repository. This

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oversight capability is essential to ensure that the DOE does not act with no regard for legitimate public concerns. In Maine, we have not had a good experience with the DOE, and I feel that the entire waste repository program needs continuous monitoring by an independent board.

Finally, we propose that, should the DOE return to a search in Maine or other eastern States, the agency should take into account factors which it appears to have previously ignored. These important factors are: One, the proximity of the site to public drinking water supplies; two, the seasonal fluctuations in the population that might occur in an area surrounding a site; and three, the impact that site characterization and selection will have on the trust relationship that exists between the Federal Government and Indian tribes.

I believe that our revisions result in a more reasonable approach to the waste repository selection program. We hope our colleagues will agree with us and support the committee amendment.

Again, I want to thank the Senator from Louisiana and the Senator from Idaho for their willingness to work with us on this issue. I hope our efforts led to a DOE that is more accountable to the public as it carries out its waste program.

AMENDMENTS TO THE NUCLEAR WASTE POLICY ACT

Mr. JOHNSTON. Mr. President, I would like to clarify for the record some information related to surface testing and site characterization activities at the candidate sites for a geologic repository. The nuclear waste legislation incorporated in H.R. 2700, the energy and water development appropriations bill, would direct the Secretary of Energy to select one of the three candidate sites by January 1, 1989, as its preferred site for detailed site characterization and testing. The preferred site would then undergo extensive site investigation, which will include construction of an exploratory shaft facility at the proposed depth of a repository. Up until January 1, 1989, the point at which the preferred site would be selected, the Department is directed to carry out site investigation work that would provide information useful in making the selection of one site. The Department would be prohibited, however, from initiating construction of an exploratory shaft facility at any of the three sites until the selection of one site is made.

Earlier today, my colleague from Washington, Mr. ADAMS, stated that this legislation would prevent the Department from gathering the data necessary to make an informed decision on a preferred site. He stated further that this legislation would prevent the Department from obtaining necessary site information from surface-based testing prior to the drilling of an exploratory shaft. My colleague also attributed to the Nuclear Regulatory Commission the opinion that this legislation will prevent the Department from obtaining the data necessary to make an informed decision on a preferred site.

I must say to my colleague from Washington that this is simply not true. There appears to be some confusion over exactly what this legislation would do and over what the Nuclear Regulatory Commission has said about it. Let me attempt to clear up that confusion.

On October 2, I received a letter from Lando W. Zech, Chairman of the Nuclear Regulatory Commission, restating the NRC's position on this legislation. In this letter, Chairman Zech stated—

> The Commission does not oppose legislation which would require that only one site undergo at-depth characterization. The Commission does not believe that simultaneous characterization of three sites is necessary to ensure the public health and safety. . . . The staff has not identified any technical reason to preclude sequential site characterization. Thus, like the Commission, the staff does not identify any regulatory health and safety requirement for characterizing three sites in parallel.

Let me emphasize that the Nuclear Regulatory Commission has not stated that the Department of Energy will not have sufficient data available to make an informed decision on a preferred site by January 1, 1989. In testimony before a House subcommittee in October, Victor Stello, head of the NRC staff, stated specifically that the Commission had no opinion on this question. Just last week, the NRC Commissioners themselves affirmed this during testimony before the Committee on Environmental and Public Works.

Unfortunately, I believe that the NRC Commissioners statements before the Committee on Environment and Public Works have been misunderstood. What the Commissioners did state was that some surface-based testing would be required—and should be carried out—prior to the time that an exploratory shaft is drilled. Let me emphasize again—the NRC Commissioners did not state that all such surface-based testing would be required prior to the point at which a preferred site is selected on January 1, 1989. The Commissioners' position has not changed—it is the same as they so stated in Chairman Zech's October 2 letter to me.

I think it is important to remind my colleagues that all three of these candidate sites—in Nevada, in Washington, and in Texas—have already been selected for characterization. All three sites have already been found suitable for detailed characterization and testing. The Nuclear Regulatory Commission has reviewed the data base leading to selection of these three sites, and they confirmed in testimony before the Committee on Energy and Natural Resources in April that there are no technical reasons not to go ahead with characterization of all three sites. They have stated that we are ready now to proceed with characterization, which includes the drilling of exploratory shafts.

The point is that all three sites are suitable for characterization. In the absence of these amendments to the Nuclear Waste Policy Act, the Department will go ahead with detailed site investigations and drilling of exploratory shafts at all three sites. This legislation would simply choose one of those sites as the preferred site and proceed with the lengthy 5- to 7-year site characterization program at that site.

Let me elaborate for a minute on what is involved in the 5- to 7-year site characterization program. Site characterization, by definition, involves surface-based testing, drilling of near-surface boreholes, laboratory testing, and testing in an exploratory shaft facility at the proposed depth of the repository. Some of this testing will be conducted above ground and some will be deep below the surface. Some data can be obtained strictly through surface-based testing, but essential information on the suitability of a site for development as a repository must be collected below the surface.

So the options are quite simple—we can proceed with the entire program, including the drilling of exploratory shafts deep below the surface, at all three sites; or we can select a preferred site and proceed with characterization sequentially.

This legislation proposes to proceed with characterization sequentially and to select a preferred site by January 1, 1989. The Department has stated that it has sufficient information to make that decision, and the Nuclear Regulatory Commission has not stated to the contrary.

The NRC Commissioners have stated that they would feel more comfortable about the selection of a preferred site for sequential at-depth characterization if the Department continued some degree of surface-based testing at the remaining two sites as insurance. I believe this is a constructive suggestion. In that regard, I submitted an amendment this morning that would direct the Secretary of Energy to continue surface-based testing at the two candidate sites not selected as the preferred site. It is my hope that this amendment will address any lingering concerns of the Nuclear Regulatory Commission about the decision to proceed with site characterization in a sequential fashion rather than at three sites simultaneously.

I ask unanimous consent that the text of my September 30 letter to Lando W. Zech, Chairman of the Nuclear Regulatory Commission, and Chairman Zech's October 2 response be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NUCLEAR REGULATORY COMMISSION,
Washington, DC, October 2, 1987.

Hon. J. BENNETT JOHNSTON,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC

DEAR MR. CHAIRMAN: I am writing in response to your letter dated September 30, 1987 in which you requested clarification of the Commission's position on S. 1668, the Nuclear Waste Policy Act Amendments Act of 1987. The agency's position is set forth in the enclosure to the letter of September 14th to Senator John B. Breaux. The Commission does not oppose legislation which would require that only one site undergo at-depth characterization. The Commission does not believe that simultaneous characterization of three sites is necessary to ensure the public health and safety. The Commission expressed the concern, however, that sequential site characterization could considerably delay the schedule for opening a repository if the preferred site is found to be unlicensable.

Mr. Hugh Thompson, Director of the NRC Office of Nuclear Material Safety and Safeguards, reflected our specific concerns regarding a potential for delay in testimony before the Committee on April 28, 1987. We would refer you to page 6 of his statement in which he said:

"One of our principal concerns is that, considering the first-of-a-kind nature of this effort, selection of only one site for detailed site characterization runs a risk of resulting in a site which may ultimately prove to be unlicensable. If, after suspending characterization of other sites, DOE were to find its initially-chosen site inadequate, or if it could not provide assurance in a licensing proceeding that the site met NRC technical requirements, there could be considerable delay while characterization was completed on another site or slate of sites, with a consequent loss of momentum. The impacts of such a delay on NRC's stated belief that there is reasonable assurance that methods of safe permanent disposal of high level waste would be available when they are needed, would have to be carefully evaluated."

The staff has not identified any technical reason to preclude sequential site characterization. Thus, like the Commission, the staff does not identify any regulatory health and safety requirement for characterizing three sites in parallel.

The Commission believes that, under the Nuclear Waste Policy Act, the site selection process is the responsibility of the U.S. Department of Energy. The adequacy of the site will ultimately be determined by the NRC in a licensing proceeding. Although the NRC will be mindful of scheduling considerations, we will only license a site which satisfies our licensing requirements.

I hope that this letter clarifies the Commission's position on S. 1668. Please contact me if we can be of further assistance.

Sincerely,

LANDO W. ZECH, Jr.,
Chairman.

U.S. SENATE, COMMITTEE ON ENERGY AND NATURAL RESOURCES,
Washington, DC, September 30, 1987.

Hon. LANDO W. ZECH, Jr.,
Chairman, U.S. Nuclear Regulatory Commission, Washington, DC.

DEAR MR. CHAIRMAN: I am writing in the hope that you can clarify some apparent misunderstanding over the Commission's position on S. 1668, the Nuclear Waste Policy Act Amendments Act of 1987. This legislation was reported to the Senate by the Committee on Energy and Natural Resources on September 1.

On September 14, the Commission provided written comments on S. 1668 to the Senate Committee on Environment and Public Works. I am particularly concerned about the interpretation of the Commission's comments related to the selection of single candidate site for characterization for a repository.

I read your comments to say that the Commission generally supports legislation to characterize candidate repository sites sequentially and, thus, to select a single site for characterization by January 1, 1989. As I understand it, the Commission's main concern with S. 1668 is the potential for considerable delay in the schedule for opening of a repository if the selected site is not ultimately found to be licensable by NRC. It is my understanding, however, that while the Commission may have concerns about the potential for schedule delays, the Commission does not believe there is any public health and safety reason to characterize three candidate sites in parallel.

As I recall, Mr. Hugh Thompson, of the NRC staff, testified before our Committee in April that the Commission's main concern about sequential site characterization was that this would somehow force NRC to license a site that it did not feel was licensable in order for the Department of Energy to meet the 1998 contractual obligation to take spent fuel from utilities. Mr. Thompson testified further, in response to questioning, that the Commission's concerns about sequential site characterization would be mitigated so long as there were assurances that the opening of a repository would be driven by its licensability and not by schedule considerations.

It would be helpful if you could clarify the Commission's position on sequential characterization of candidate repository sites as contemplated in S. 1668. Thank you for your assistance in this matter.

Sincerely,

J. BENNETT JOHNSTON,
Chairman.

Mr. ADAMS. Mr. President, we have been discussing the appropriations bill from the Energy and Water Subcommittee of the Appropriations Committee and have been pointing out to our colleagues—and I hope that those who are watching and observing this today will be aware—that we are objecting to the placing of legislation on this appropriations bill.

To those who have amendments to the bill, there is the availability of making amendments to that bill to the original text. There has been no effort by Senators who have been discussing the nuclear waste repository provisions being placed on this bill to block other Members who have legitimate concerns or wish to debate other amendments to the energy and water bill or other amendments that may be proposed, so that on the proposition of whether or not Senators should vote or not vote for cloture next Tuesday, they should not in any way be influenced either way by the debate that is going on with regard to the nuclear waste provisions.

As I have previously stated and has been indicated in my debate with the distinguished Senator from Louisiana, Senator JOHNSTON, who is managing the bill, our concern is with placing an entire legislative bill, S. 1668, onto the appropriation bill, H.R. 2700.

We have attempted at all points during this debate to indicate that if that authorization bill were withdrawn and were taken up as it will and should be and the authorization forum be that either the reconciliation bill portions that deal with authorizations or as a freestanding bill, we were prepared to agree on time, so that there would be no delay of the authorization bill, nor would there be delay of the appropriation bill.

We have not been able to receive an agreement on that and, therefore, I would urge my colleagues that during the period of time next week when we will be debating this bill, which will be on Tuesday after the continuing resolution, regardless of whether cloture is invoked, because if cloture is invoked there are 30 hours of debate and we will debate it, if it is not invoked we will have an opportunity to discuss that tomorrow and on Tuesday, then we would debate as the bill being completely open, but with the authorization bill being struck out of it, because we would certainly move to see that the authorization bill was not stricken.

Mr. President, earlier in the day I was in the process of discussing some of the substantive bases and reasons why we want this bill to be taken up in the regular processes of the Senate and of the House, which provides in detail for the use of the authorizing procedure before you arrive at the appropriating procedure.

We have tried very hard to discuss, for example, the fact that this authorization bill's being placed in the appropriation bill completely changes the Nuclear Waste Policy Act, that this Senate worked on for so many hours, days, weeks, and months, in 1982 in order to create the Nuclear Waste Policy Act of 1982. The people who were involved in that are in the authorizing committees. They are the experts. They are the people who have devoted years of their lives to this, and it is wrong not just from a matter of technical rules but wrong from a matter of the interest of the United States that we should have those people with the expertise bypassed in this matter handled entirely in an appropriations bill and later in an appropriations conference.

I want to turn now to some of the exact points that we have discussed.

Earlier today I was discussing the necessity for going to each of the various sites and determining whether or not it was possible for that site to be considered for final selection. This needs what is known as surface characterization, a big word that describes some very simple but important things. It describes going to the site and without drilling an enormous shaft, which might be terribly dangerous to determine the water flows, to determine the socioeconomic surroundings of the shaft, to determine the geological formation that is there, to determine before you select a site whether or not that site can meet the final qualifications.

What a tragic thing it would be for the whole program, for the whole national interest if we were to select a site and often Nevada has been mentioned, go to that area, start the work that is required by S. 1668 as opposed to looking at all three sites and in the course of that determine that it is not qualified and that a scientific basis for deciding what is good and what is bad has not been made. We would then at that point probably have to back up and start all over.

That has been suggested in the House of Representatives by those who handled the original authorization. They are saying that the selection of going down to three was so bad, we may not have anything in any one of the three. So what would happen then is Nevada might be put out for national security reasons for testing of nuclear weapons. You go up to Hanford and find that the water flows there are absolutely impossible to build it. You go to Texas and we do not even know what we have there. We know it is a salt site, but nobody has done any extensive work, and at that point you would have the scientific community and the American public saying, "We don't have any site at all." Then you would start all over.

All of our efforts are directed toward trying to get a rational basis for selection so we do not spend all of our time with lawsuits or backing up and going and looking someplace else.

This is a national problem, and that national problem is that there are reactors and these reactors are producing more and more rods filled with highly radioactive waste and they are filling up blue pools in the entire country and particularly in the Eastern part of the United States and we have to have a valid program for proceeding with this.

We still are not certain under S. 1668 which is trying to be incorporated by reference into H.R. 2700 whether or not there is going to be a monitored retrievable storage system, again a big word, but all it says and means is you take all these rods, take them to a place above ground, divide them all up, package them in some way and they are not even sure how to package them, because if you put copper around them and you bury them in salt they will corrode, if you put another metal around them which is much more expensive it tends to be more brittle and so you do not want it anyplace where there is going to be an earthquake fault. So we have a program that is off the track and we are trying to put it back on the track and want to do it in a sustained and legislative manner that is valid.

And to do this I think it is absolutely essential that we have the option of gathering additional information, more than has been presented to the Committee on Appropriations, and to use the great amount of information that has been presented to the Committee on Environment and Public Works which is well described as I have stated this morning in my statement, and I was just starting to refer to this, the dear colleague letter circulated by the Environment and Public Works Committee yesterday. The Appropriations Committee rejected the Environment and Public Works Committee's even attempting to assert their legitimate jurisdiction.

Mr. President, I do not try to make judgment between the Energy Committee and the Environment and Public Works Committee to say to all my colleagues one is absolutely better. But I can tell you from this Senator's viewpoint in looking at them, the Environment and Public Works authorizing bill which will go into the reconciliation bill is far superior to the Energy and Water Subcommittee of the Energy Committee which has been presented and is in the reconciliation also. Let us have it out at that point. Let us get it done.

I just do not believe that the National Regulatory Commission [NRC], the agency with ultimate responsibility of ensuring the public health and safety, the agency which is going to have to license this repository at some time, should be ignored. And they say that they have got great problems with the manner of not characterizing all three sites, not getting more information.

I want to document that claim, Mr. President, and, at a later point, either today or tomorrow, I will read into the RECORD some of the memorandum from the NRC staff to its Commissioner, which was affirmed by the Commissioners testifying on October 29 before the Environment and Public Works Committee. But what it does is it simply describes some of the things that need to be done. And it is very important these things be considered because they are directly in opposition to S. 1668, which has been thrown into this appropriation bill.

Mr. President, I notice that my colleague from Nevada has arrived on the floor. I know that he has some additional points he wishes to make. So, at this point, without losing my right to the floor under the agreements that I understand have been made under the two-speech rule, I yield the floor at this point to allow the other Senators to discuss the matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Nevada.

Mr. REID. Thank you very much, Mr. President. I say to my friend and colleague from the State of Washington, I commend him on the statement he has given. I was speaking earlier today—and we have just a limited amount of time this afternoon to discuss it at some length—about the shipment and routing of spent fuel and high-level waste. I want to spend the remaining time we have this afternoon talking in some detail about this subject. And then at some later time, I will return to my illustrations indicating the transportation routes, both of rail and truck, through this country.

Although a number of spent-fuel shipments have already been made, the eventual full-scale transportation of spent fuel to a permanent repository or a monitored retrievable storage facility would have a far greater impact on the country both physically and certainly psychologically.

Since 1979 over 779 commercial and special/test spent-fuel shipments have been made in the United States totaling approximately 361 metric tons. The Southern States have had over 240 spent-fuel shipments weighing some 66.6 metric tons. Specific shipping information is currently required by the U.S. Department of Transportation and is stored in the Department's radioactive materials routing report data base. The report provides detailed shipping information, including shipping company, carrier, origin and destination, shipment date, material shipped, and route. From the South's perspective, this information indicates little consistency over time in the number and destination of spent-fuel shipments. In the case of high-level waste, there have been no shipments—that is zero shipments—because of the adequate storage capacity at the Denver generation site.

Southern reactors as a whole are projected to be major shippers to either a geologic repository or monitored retrievable storage facility, if such is approved by Congress. The region's 27 reactor sites are projected to make 502 annual shipments to a repository, some 40 percent of the national total. Although 19 of the South's 27 reactor sites would ship by rail because of a rail cask's higher volume capacity, nearly 82 percent of the region's annual shipments would be made by truck. With an MRS facility, southern reactor sources would ac-

count for nearly 50 percent of total shipments to the facility, since western reactors are assumed to ship directly to a repository. The annual shipment of high level waste from the Savannah River plant, for example, would account for approximately 515 truck or 103 rail shipments.

Under current DOT regulations, shipments of "highway route controlled quantity radioactive materials"—including spent fuel and Type B quantities of HLW—must use preferred routes for highway transport. Preferred routes are interstate highways, with use of an interstate bypass around cities when available, and State-designated routes selected by State routing agencies in accordance with DOT guidelines or an equivalent routing analysis that adequately considers all public risks.

A number of routing and shipping regulations have been passed by State and local governments to restrict the transportation of spent fuel and high-level waste, but these prohibitions, controls and impediments probably would be preempted by Federal law, some which we have already explained today.

Hypothetical routing of commercial spent fuel shipments by highway and rail to three nominated repository locations and an MRS, if approved by Congress—which it appears that it certainly will—can be predicted by the highway and interline automated routing models. The models are in essence computerized routing atlases that incorporate current DOT highway routing requirements and other important criteria to generate the hypothetical routing networks on maps and tables. The models predict that spent-fuel shipments will have a significant impact on several Southern States, depending on the eventual location of the repository or use of an MRS.

While no hypothetical routes have been projected for defense or high-level waste shipments to a repository—and this is still another problem, Mr. President, talking about defense high-level waste. We are only talking about commercial high-level waste—while no hypothetical routes have been projected for defense high-level waste shipments to a repository, by extrapolating from commercial reactor routes located near high-level waste storage areas, general rail and truck routes can be estimated.

From July 16, 1979, to June 1, 1985, there were some 779 commercial and special/test spent-fuel shipments in the United States totaling, as I indicated before, about 361 metric tons. While many special/test spent-fuel shipments have taken place since 1979, the bulk of the shipments has involved commercial spent fuel. Returning to the Point Beach reactor in Wisconsin, for example, were 223 shipments of spent fuel from the shutdown of reprocessing facilities in Morris, IL, and West Valley, NY.

We have spent a lot of time the last few days talking about West Valley, NY, and it is interesting to note that, as I indicated previously, returning to the Point Beach reactor in Wisconsin, for example, were 223 shipments of its spent fuel from the shutdown of reprocessing facilities in Morris, IL, and West Valley, NY.

Well, a lot of the materials from West Valley, NY, have not been able to return anyplace. Those fuels have spoiled the ground in that area. They have spoiled the environment and they are trying to figure out a way to get rid of them. That is not easy.

In addition, the Monticello reactor site in Monticello, MN, shipped the largest quantity of spent fuel, 122½ metric tons, to Morris, IL.

We are talking about these shipments here for illustrative purposes and we are talking about 361 tons here, we are talking about 122½ tons there; very small amounts, when you consider that right now, ready to be shipped, of commercial, high-level nuclear waste, we have 70,000 metric tons. So the figures we talk about here are very, very tiny in comparison to what really needs to be considered in the future.

According to the U.S. Nuclear Regulatory Commission, they have graphed the amount of nuclear fuel that is to be sent to various places. The NRC receives its spent-fuel shipping information under the law. There is a law that requires the spent-fuel shipping information to be given to the NRC which, of course, requires licensees to obtain advance approval for the routes used for truck shipments of spent fuel.

Between 1979 and 1985, 1979 and 1985, there were 240 spent-fuel shipments in Southern States totaling approximately 66.6 metric tons. This accounts for 30.8, and 18.5 percent of U.S. shipments and quantity, respectively.

The majority of the southern shipments, 194 of them, and quantity, which is 66⅓ metric tons, took place within this region. The most significant shipment involved the transfer of almost 50 metric tons of commercial spent fuel in 19 separate shipments from Robinson, the nuclear powerplant in Hartsville, SC, to the Brunswick reactor site in North Carolina.

The largest receiver of spent fuel in the South is the Savannah River plant in Aiken, SC. Between 1979 and 1985 the plant was the destination for 180 shipments totaling .92 metric tons.

We spent some time yesterday, and I have spent time on this floor on previous occasions, talking about the disaster that we have at the Savannah River plant on the South Carolina-Georgia border. It is a disaster. The mess there will take years and years to clean up, if in fact they can clean it up.

People are worried that they may not be able to clean it up. Right now, as we sit here, the tanks are leaking. The tanks containing high-level nuclear waste are leaking into the ground—into the ground water in this area. It is not a question of there being a few tons stored there; thousands of tons, thousands of gallons of high-level nuclear waste are stored at Savannah River. And they really do not know what to do with it.

It is a multibillion dollar project to clean it up already, they know. What they are doing, they have storage tanks and they are moving materials out of that into casks and placing them into a separate storage area, similar, I guess, to a monitored retrieval site. Because the fuel is still very, very hot.

In addition to the U.S. Nuclear Regulatory Commission's listing of spent fuel shipments, the U.S. Department of Transportation requires the post-notification of highway route controlled quantity shipments of radioactive materals.

Following the DOT's final rulemaking in the Federal Register, all shippers of specified quantities of radioactive materials were required prior to shipment to the Department of Transportation, route plan and other information.

Now, Mr. President, this goes back to some of the things, then, I have talked about previously. It is good that the Department of Transportation requires a shipment route plan and other information which would, in effect, as I indicated yesterday, notify areas on the route where it would be transported that this highly toxic, highly poisonous material would be transported through the cities and towns.

But, as indicated yesterday, so what? What good does it do to notify these States, these cities, these towns, these counties that they are going to be on the route of a large load of high-level nuclear waste? We established today that the courts have held that the local cities and towns cannot pass any ordinances or laws that affects the Department of Transportation's routing. They cannot collect moneys from the transporters of this trash. They are just there with no ability to respond in case of an accident; no ability to monitor, no ability to oversee how they feel that it could be safely carried through the streets—through the highways, through the freeways. They are just at the mercy of the Department of Transportation.

The only thing the notification does, of the Department of Transportation, is just frighten these people. Because, as I indicated yesterday, as one police officer informed me: So tell us that

these hazardous wastes are coming. We cannot do anything about it.

We have made sure now that we cannot do anything about it because the courts have said they cannot.

Since 1983 this criteria replaced the use of "large quantity" with "highway route controlled quantity" based on the A1-A2 radionuclide classification system. The radioactive shipment information is stored in the radioactive materials routing report and this data base—which is a data base. It is controlled by the Department of Transportation Office of Hazardous Materials Transportation. The RAMRT data originate from three sources: Nuclear Regulatory Commission's Office of Nuclear Material Safety and Safeguards, the Division of Safeguards; the Office of Defense Waste and Byproducts Management; the Division of Operations and Traffic of the Department of Energy and NRC-licensed shippers.

The report is available to States and public on request in a computer printout format that is very hard to read. I have a copy of one here.

Of the 431 shipments, only 18 involved spent fuel with the majority being large quantity and highway route quantity controlled shipments.

The most active DOE shippers include INEL, Oak Ridge National Laboratories, Three Mile Island.

We have heard a lot of discussion, Mr. President, here about Three Mile Island and why it has brought the public's attention to nuclear waste and nuclear energy. We know at Oak Ridge that the people of Tennessee are concerned. They are concerned because they are in the running. They are leading the pack for the monitored retrievable storage system, the first one.

Nevada may be leading the pack for the permanent high-level waste repository but, without question, Tennessee, Clinch River, is leading the charge for the monitored retrievable.

The NRC licensees, shipping large quantity on highway route controlled quantity products, included a lot of companies: Neutron Products, Union Carbide, Advanced Medical Systems, and many others. These shipments have been conducted primarily by common carriers as compared to private carriers owned by the shippers.

Between January 2, 1982 and February 2, 1987, a period of 5 years and 1 month, the Southern States were involved in shipping and/or receiving approximately 493 of these shipments. The shipment of commercial and special/test spent fuel accounted for 151 shipments, or about 31 percent of the southern total.

There is little consistency over time in the number and destination of spent fuel shipments from a regional perspective. It really does not give you a good balance.

For example, if you look at the spent fuel shipments in the South, you will find in 1982, and remember this is a region where, in fact, the majority of the fuel, spent fuel comes, in 1982, 53 shipments. But in 1986, only 23 shipments. Interesting. Even though we know that just the same amount is being produced.

The heaviest spent fuel shipping year in the South, which was 1982, involved a large number of shipments, leaving the Savannah River plant and the port facilities of Portsmouth, VA. Also, the Westinghouse plant in Chatsworth, in California.

In addition, 11 shipments were made to the Savannah River plant, mostly from Chalk River, in Canada. The most shipments, that is 16 in 1982, however, were made from Portsmouth to the Savannah River plant.

The most frequent point of origin for spent fuel shipments leaving the region has been Portsmouth, VA. Some 44 shipments of special test of mainly naval reactor fuel and imported foreign spent fuel have been sent from Portsmouth primarily to INEL.

I will bet that most Members here did not realize that we imported spent fuel, but we do. We import spent fuel.

In addition, the Savannah River plant and the University of Missouri both shipped significant amounts of special/test spent fuel out of the region, 13 and 8 respectively. With regard to shipments entering the South, the Savannah River plant received the most spent fuel by far, 22 shipments. The Savannah River plant was also the leading recipient of spent fuel shipped within the region, accepting 33 shipments from Portsmouth. In addition, eight commercial spent fuel shipments were moved from VEPCO's Surry plant to INEL during April-May 1986 for research use involving dry cask storage.

High-level waste has not been transported in the United States, as I indicated earlier, because of adequate storage capacity at the various generation sites. Moreover, a majority of the high-level waste is currently in forms that are very difficult to handle and transport.

What is this material? What is the form it is in now?

The form that it is now in is liquid. You can imagine the difficulty of shipping a liquid, especially something that has the dangerous characteristics of plutonium. So the forms that are difficult to transport and handle come in two forms: liquid, which I have just talked about, and also a sludge that some say is even worse than the pure liquid because it is kind of a mixture between a liquid and a solid. They have difficulty placing these in containers for shipment.

So the best that we can do now, Mr. President, is talk about, in effect, a computer model, or maybe even one step lower than a computer model. In effect, what we are talking about now no one really knows how it is going to work in the transportation of this high-level waste. The President remembers the longstanding controversy that involved the State of New Jersey and the State of Nevada dealing with low-level nuclear waste.

In the State of New Jersey, they had many, many railroad cars of low-level nuclear waste that they wanted to move out of the State of New Jersey. Where did they want to move it? To the State of Nevada, some 3,000 miles across country.

Mr. President, the reason I mentioned that is because that was low-level nuclear waste, something that is not dangerous, the type that x-ray technicians use, gloves that doctors' use in some of their work, not anything that you would really be frightened about just by talking about it.

But that is not high-level nuclear waste. High-level nuclear waste is not gloves worn by x-ray technicians or gowns worn by x-ray technicians, but it is plutonium, a dangerous, dangerous, element or material.

You can recall, Mr. President, the controversy that went on for weeks and months regarding low-level nuclear waste. You can imagine the fear and trepidation of the people that have to be concerned about high-level nuclear waste when you can remember the great controversy over low-level nuclear waste.

Some of the controversy over those shipments of low-level nuclear waste from New Jersey to Nevada was not only with the States of Nevada and New Jersey, but there was a lot of controversy between the States of New Jersey and Nevada. Why? Because they would be hauling these railroad cars through major metropolitan areas. That was a real concern to people who knew about it.

One reason this debate is important is because people need to be educated, they need to be educated to realize that we have a little bit of experience with just a few score cars of spent fuel. We have no experience with high-level nuclear waste.

The reason I have gone into some detail about shipments and the routing of spent fuel is because we are going to have a comparison to the difficulty with high-level nuclear waste as compared to the spent fuel.

As time goes on we will develop graphically and be able to show the real danger as high-level nuclear waste is carried through the streets and cities of our communities so that people will know this is happening. People should be educated. This should not be a surprise to them.

That is why the Department of Transportation must do more than just simply notify someone that a

shipment is being sent through their city. Who do they notify? They notify the police who cannot do anything anyway because they have established by law and in court decisions that nothing can be done by States or local entities to generate revenues by virtue of these shipments coming through so they can enforce the law, so they can monitor what is going on with this nuclear waste.

Prior to the start of shipments of spent fuel and high-level waste to the geologic repositor or MRS, if approved, DOE anticipates numerous spent fuel shipments over the next 5 years in support of dry storage research and development.

For example, in June 1985, the Virginia Electric Power Co.'s surry plant began an estimated 50 shipments to INEL for dry cask storage testing. Maryland's Calvert Cliffs reactor site soon will be shipping some spent fuel to the Hanford Reservation for dry storage testing. Additional reactor facilities are expected to ship spent fuel to INEL in 1988 for testing of prototype fuel rod consolidation equipment.

The leading candidate for first repository sites include Hanford, WA, Yucca Mountain, NV, and Deaf Smith County, TX. According to the DOE environmental assessments for these nuclear waste repository sites, the authorized first repository will begin accepting spent fuel totaling 400 metric tons of uranium in 1998 and 3,000 annually within 6 years of that date.

The first repository is expected in full operation—we do not know when any more, Mr. President, because, as we explained this morning, we have three different laws floating around here, or proposed laws.

We have first the 1982 Nuclear Waste Policy Act, which was the law of the land, which started out on a very positive note, with the President of the United States giving a speech on new federalism and how this was an example of how 12 committees of Congress had gotten their act together and how this would be a step in the right direction, giving the States the right to participate in their future. Well, that law has been ruined. That law is still on the books but in name only.

We have another law that is proposed, and that is the one that is the measure of legislation that is attached to the appropriations bill that is now before this body. It is an incredible piece of work that is a legislative measure, violative of its own committee rules and regulations; namely, violative of the committee's own rules, notwithstanding the fact that it violates the rules of this body by being legislation on an appropriations bill.

What that proposed law does is just rubberstamp all the illegal activities of the Department of Energy up to this date, and we documented them, and documented them in great detail, just a few hours ago. Very simply, what it does is just ramrod a decision, it forces a decision, it forces a decision based on a travesty, because we have the Department of Energy, which looks at a law passed by the United States, signed by the President, throwing that piece of legislation away, saying, "In our bureaucratic mind, we, the Department of Energy, know better what the people of this country need than those elected officials, the President and the Congress. Even though they passed the law, we are not going to pass the law because we know better than they what the law should be."

So they set out on January 7, 1983—or probably even before then—saying we are not going to do what that law says, and they have not. And that is what we are rubberstamping in this body. They have gone so far as to not even follow their own regulations. They do not follow the law. They do not follow their own regulations. And then we had all kinds of testimony read into the RECORD which shows they do not even follow their own scientific research and findings. But what we are being asked to do in this body is put a great big stamp of approval on all the illegal, improper, and unfair activities of the Department of Energy.

We simply cannot do that. It is wrong.

Mr. President, I want to reemphasize that those of us who are opposing this legislation on an appropriation bill are not individuals who are saying kill the nuclear waste program. Quite to the contrary. In fact, I think we have approached it very reasonably. We have approached it reasonably in that we have taken the middle ground. We have said there should be a nuclear waste program in this country. What we are asking—and I am speaking of we collectively. When I say we, the Environment and Public Works Committee, which truly has jurisdiction over this—what we are saying should be done is to let us look at the 1982 act. Let us look at what the legislation on an appropriation bill has done. Let us look at the good parts out of both and take a middle ground. That is what the Environment and Public Works Committee has done. They have attempted to arrive at a middle ground. We have done that. We do not rubberstamp all of the illegal things the Department of Energy has done over the years. We have not done that.

The Committee on Environment and Public Works has attempted the reasonable approach. What we have tried to do is say we have 70,000 metric tons of high-level nuclear waste stored around this country. Something has to be done with it.

The Environment and Public Works Committee has said let us look at what should be done with it.

We have given a reasonable time to reassess what the Department of Energy has done, reassess how they arrived at their siting, reassess how the characterization will go forward. In effect, Members of this body must recognize that the Committee on Environment and Public Works is going more than half way, they are going with something over which in fact they have jurisdiction.

Mr. President, I have heard Members of this body talk on occasion about the quality of life of a U.S. Senator. They talk about the extremely long hours we work in this body from early in the morning until late at night. Why do we not have the quality of life we want? Why do we not have a quality of life that allows us to spend more time with our children? Why do we not have a quality of life in this body that allows us to spend more time with our families? Why do we not have a quality of life in this body that allows us to return home to our States more often than we do?

The main reason we do not is because we do not follow the rules and regulations that are set up for this body. We do not follow our own rules and regulations. If we followed our own rules in the Senate of the United States, we would have a better quality of life. If we followed our own rules, we would not be legislating on appropriations bills. That is against the rules of this body. We are not supposed to legislate on appropriation bills. I am a member of the Appropriations Committee. We have plenty to do in that committee without considering legislative matters. We have extremely complicated budgetary matters compounded by Gramm-Rudman, compounded by sequestration, compounded by budget marks, compounded by a lot of things.

The Appropriations Committee has lots to do. We do not need to infringe upon this jurisdiction of the Environment and Public Works Committee. The Environment and Public Works Committee has jurisdiction over what we are talking about today and the Appropriations Committee should not be involved in it. There is not a Member of this body who is not concerned with the quality of life of a U.S. Senator. So I suggest, Mr. President, if we want to improve the quality of life of Senators, then those Senators and staff members who are listening must recognize that they should support the Senator from Washington and the Senator from Nevada and go along with dropping, wiping out, getting rid of legislation on this appropriation bill and following generally the rules of this body. That would improve the quality of life significantly.

Mr. President, I think we all recognize, while we are talking about qual-

ity of life as it relates to different rules and regulations, why this method is being used. This method is being used as a ploy to get around a conference with committees of the other body which have jurisdiction over nuclear waste—the Committee on Energy and Commerce, the Committee on Interior. Because with this ploy, this circuitous route, what we are doing is going around committees which have jurisdiction over these matters, and it should not be done. It should not be done because we are not following the rules of this body. I cannot believe that Chairman MORRIS UDALL and Chairman JOHN DINGELL will allow this to happen. I cannot believe that the Rules Committee, the powerful Rules Committee of the other body will allow this to take place, will allow the rules of this body, which are not being followed, to violate what has taken place in the House.

Mr. President, it is my understanding that the Senator from the State of Nebraska wishes this Senator to yield upon the condition that I do not have a problem, the next time I arise, with a second speech. Is that true.

Mr. EXON. I thank my friend for yielding. To respond to his question, I would simply advise him that I understand the majority leader is on his way to the floor to propose an agreement. And I appreciate very much his courtesies. I would like to ask the Senator to yield to the majority leader when he arrives on the floor.

Mr. REID. I appreciate the response of the Senator from Nebraska.

Mr. President, just in brief summation, I think it would be inappropriate, and it would be wrong and I think this body should be reminded as often as it can be the purpose of having this legislation on this appropriation bill.

I repeat it is simply a ploy to get around the conference with the House, a conference with the House with appropriate committees. It would be as if a matter from the Ways and Means Committee of the House of Representatives comes over here and instead of going to conference with the Finance Committee they send it, the Ways and Means matter, to the Committee on Environment and Public Works. That would not be right. What they are trying to do here is not right either, Mr. President.

I apologize to the Chair for my deviation from my statement on transportation of high-level nuclear waste. But I have to, I think, Mr. President, from time to time make that point, and make that statement.

Let us not get lost in statistics over 70,000 metric tons, whether it is high-level nuclear waste or spent fuel. Let us realize why we are here. We are here because we have a committee that is trying to take jurisdiction over something that it has no right to do. It is trying to take jurisdiction over matters that should not be before this body at this point.

While we are talking about it, I am going to continue to remind my fellow Senators that if we want to improve the quality of life of the Members of the U.S. Senate, then let us start following our own rules. Let us not play games. Let us not have the Parliamentarian rule with us on point of order, and then have the Members violate their own rules by overruling the Parliamentarian. That is not appropriate.

I would also suggest, Mr. President, that from time to time it is important that we recognize that we are not here trying to nit-pick. We are not here trying to thread the eye of a needle. The reason we are here, Mr. President, is because the Committee on Environment and Public Works has drawn a middle ground.

You know, I learned many years ago when I served in the Nevada State Legislature that the art of legislation was the art of compromise. I think it is about time that Members recognize why we are here. The Environment and Public Works Committee has come up with a middle ground, a fair, reasoned approach to a controversy. We do not want the radical DOE-botched job of the 1982 act. We do not want the radical approach that is in the legislation on this matter.

Mr. BYRD. Mr. President, would my distinguished friend yield for a question?

Mr. REID. I would be happy to yield to the majority leader.

Mr. BYRD. Mr. President, I thank the distinguished Senator from Nevada.

Would he be ready to yield the floor? I would like to proceed to the consideration of a bill that is on the calendar, and the distinguished Senator from Nebraska, Senator EXON, is here and ready to proceed to deal with that bill and the management of S. 1539.

And I would say to the distinguished Senator from Nevada that upon the disposition of the Railroad Safety Act bill it would not be my intention to return to the energy and water appropriation bill today. The Senate would be back on that bill tomorrow. So at any moment when he is ready to close his statement, I would then proceed to call up the bill that I have mentioned.

I thank him for yielding.

Mr. REID. I would be happy to yield to the majority leader recognizing we will turn to this matter tomorrow at the call of the majority leader.

Mr. BYRD. I thank the able Senator, Mr. President. I congratulate him. I say he is most cooperative and accommodating.

RAILROAD SAFETY ACT

Mr. BYRD. Mr. President, under the order, after consultation with the minority leader, the majority leader is authorized to proceed to the consideration of Calendar Order No. 306, S. 1539, a bill to amend the Federal Railroad Safety Act of 1970.

I ask that the Chair lay before the Senate that bill.

The PRESIDING OFFICER (Mr. BREAUX). The clerk will report.

The legislative clerk read as follows:

A bill (S. 1539) to amend the Federal Railroad Safety Act of 1970, and for other purposes.

The Senate proceeded to consider the bill (S. 1539) to amend the Federal Railroad Safety Act of 1970, and for other purposes, which had been reported from the Committee on Commerce, Science, and Transportation, with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets, and the parts of the bill intended to be inserted are shown in italic.)

S. 1539

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Railroad Safety Act of 1987".

AUTHORIZATION FOR APPROPRIATIONS

SEC. 2. Section 214 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 444) is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting immediately after subsection (c) the following:

"(d) There are authorized to be appropriated to carry out the provisions of this Act not to exceed $40,649,000 for the fiscal year ending September 30, 1988, and not to exceed $41,868,470 for the fiscal year ending September 30, 1989.".

INCREASED PENALTIES; LIABILITY OF INDIVIDUALS

SEC. 3. (a) Section 209(a) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 438(a)) is amended by striking "railroad" and inserting in lieu thereof the following: "person (including a railroad or an individual who performs service covered under the Act of March 4, 1907, commonly referred to as the Hours of Service Act (45 U.S.C. 61 et seq.) as in effect on the date of enactment of the [Federal] Railroad Safety [Authorization] Act of 1987, or who performs other safety-sensitive functions for a railroad, as those functions are determined by the Secretary)".

(b) Section 209(b) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 438(b)) is amended by striking all after "thereof" and inserting in lieu thereof the following: "in such amount, not less than $250 nor more than $10,000, as the Secretary considers reasonable.".

(c)(1) The first sentence of section 209(c) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 438(c)) is amended to read as follows: "Any person violating any rule, regulation, order or standard referred to in subsection (b) of this section may be assessed by the Secretary the civil penalty applicable to the rule, regulation, order or standard vio-

lated, except that any penalty may be assessed against an individual only for willful violations.".

(2) The third sentence of section 209(c) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 438(c)) is amended [immediately after "occurred" the following: "in which the individual resides,".] *by striking "occurred" and inserting in lieu thereof the following: "occurred, in which the individual resides,".*

(d) Section 209 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 438) *is amended by adding at the end* the following:

"(f) Where, after notice and opportunity for a hearing, violation by an individual of any rule, regulation, order, or standard prescribed by the Secretary under this title indicates that such individual is unfit for performance of any safety-sensitive task, the Secretary may issue an order directing that such individual be prohibited from serving in a safety-sensitive capacity in the rail industry for such period of time as the Secretary considers necessary. This subsection shall not be construed to affect the Secretary's authority under section 203 of this title to take such action on an emergency basis.".

QUALIFICATIONS OF OPERATORS OF TRAINS

SEC. 4. Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431), as amended by this Act, is further amended by adding at the end the following:

"(j)(1) The Secretary shall, within 18 months after the date of enactment of this subsection, issue rules, regulations, standards and orders concerning the minimum qualifications of the operators of trains. In issuing such rules, regulations, standards and orders, the Secretary shall consider the establishment of an engineer licensing program, uniform minimum qualification standards, and a program of review and approval of each railroad's own qualification standards.

"(2) Not later than twelve months after the date of enactment of this subsection, the Secretary shall transmit to the Congress a report on the activities of the Secretary under this subsection, together with an evaluation of the rules, regulations, standards and orders the Secretary anticipates will be issued under this subsection.".

ACCESS TO THE NATIONAL DRIVER REGISTER

SEC. 5. (a) Section 206(b) of the National Driver Register Act of 1982 (23 U.S.C. 401, note) is amended by adding at the end the following:

"(5) Any individual who is employed by a railroad or who seeks employment with a railroad and who performs or would perform services covered by the Hours of Service Act (45 U.S.C. 61 et seq.) or other safety-sensitive functions, as determined by the Secretary, may request the chief driving licensing official of a State to transmit information regarding the individual under subsection (a) of this section to his or her employer, prospective employer, or to the Administrator of the Federal Railroad Administration. The Administrator, employer or prospective employer shall make that information available to the individual, who will be given an opportunity to comment on it in writing. There shall be no access to information in the Register under this paragraph which was entered in the Register more than three years before the date of such request, unless such information relates to revocations or suspensions that are still in effect on the date of the request. Information submitted to the Register by the States under Public Law 86-660 (74 Stat. 526) or under this Act shall be subject to access for the purpose of this paragraph during the transition to the Register established under section 203(a) of this Act.".

(b) [Sections 206(b) (1), (2), and (5)] *Paragraphs (1) and (2) of subsection (b) of section 206* of the National Driver Register Act of 1982 (23 U.S.C. 401, note) [is] *are each* amended by adding at the end the following: "Information submitted to the Register by States under Public Law 86-660 (74 Stat. [526), and] *526) or* under this Act shall be subject to access for the purpose of this paragraph during the transition to the Register established under section 203(a) of this Act.".

PROTECTION OF EMPLOYEES AGAINST DISCRIMINATION

SEC. 6. Section 212(c)(2) of the Federal Railroad Safety Act of 1970 [(45 U.S.C. 441(c)(2)] *(45 U.S.C. 441(c)(2))* is amended to read as follows:

"(2) In any proceeding with respect to which a dispute, grievance or claim is brought for resolution before the Adjustment Board (or any division or delegate thereof) or any other Board of Adjustment created under section 3 of the Railway Labor Act (45 U.S.C. 153), such dispute, grievance or claim shall be expedited by any such Board and be resolved within 180 days after its filing. If the violation of subsection (a) or (b) is a form of discrimination other than discharge, suspension, or any other discrimination with respect to pay, and no other remedy is available under this subsection, the Adjustment Board (or any division or delegate thereof) or any other Board of Adjustment created under section 3 of the Railway Labor Act, may award the aggrieved employee reasonable damages, including punitive damages, not to exceed [$5,000.".] *$10,000.".*

NORTHEAST CORRIDOR IMPROVEMENT PROJECT

SEC. 7. Section 704(a)(1) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 854(a)(1)) is amended by adding at the end the following: "improvements to the communication and signal systems at locations between Wilmington, Delaware, and Boston, Massachusetts, on the Northeast Corridor main line and between Philadelphia, Pennsylvania, and Harrisburg, Pennsylvania, on the Harrisburg Line; improvement to the electric traction systems between Wilmington, Delaware, and Newark, New Jersey; installation of baggage rack restraints, seat back guards and seat lock devices on three hundred forty-eight passenger cars operating within the Northeast Corridor; installation of forty-four event recorders and ten electronic warning devices on locomotives operating within the Northeast Corridor; and acquisition of cab signal test boxes and installation of nine wayside loop code transmitters for use on the Northeast Corridor;".

JURISDICTION OVER HIGH SPEED RAIL SYSTEMS

SEC. 8. (a) Section 202(e) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431(e)) is amended to read as follows:

"(e) The term railroad as used in this title includes all forms of non-highway ground transportation that run on rails or electromagnetic guideways, except for rapid transit operations within an urban area that are not connected to the general railroad system of transportation. The term railroad specifically refers, but is not limited, to (1) commuter or other short-haul rail passenger service in a metropolitan or suburban area, including any commuter rail service which was operated by the Consolidated Rail Corporation as of January 1, 1979, and (2) high speed ground transportation systems that connect metropolitan areas, without regard to whether they use new technologies not associated with traditional railroads.".

(b) Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431) is amended by striking subsections (i), (j), and (k).

ENFORCEMENT OF SUBPOENAS AND ORDERS

SEC. 9. Section 208(a) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 437(a)) is amended by striking all from the semicolon and inserting in lieu thereof the following: ". In case of contumacy or refusal to obey a subpoena, order, or directive of the Secretary issued under this subsection or under section 203 of this title by any individual, partnership, or corporation that resides, is found, or conducts business within the jurisdiction of any district court of the United States, such district court shall have jurisdiction, upon petition by the Attorney General, to issue to such individual, partnership, or corporation an order requiring immediate compliance with the Secretary's subpoena, order, or directive. Failure to obey such court order may be punished by the court as a contempt of court.".

STUDY

SEC. 10. Not later than six months after the date of enactment of this Act, the Secretary of Transportation shall report to the Congress on the need and feasibility of imposing user fees as a source of funding the costs of administering the Federal Railroad Safety Act of 1970 (45 U.S.C. 431 et seq.) and all other Federal laws relating to railroad safety and railroad noise control. In preparing such report, the Secretary shall specifically consider various methodologies and means for establishing a schedule of fees to be assessed to railroads or others involved in providing rail transportation; procedures for the collection of such fees; the projected revenues that could be generated by user fees; a projected schedule for the implementation of such fees; and the impact of user fees on railroads or others who might be subject to such fees and on the Federal railroad safety and railroad noise control programs.

CONFORMING AMENDMENTS

SEC. 11. Section 202(a) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431(a)) is amended by inserting immediately after the first sentence the following: "This authority specifically includes the authority to regulate all aspects of railroad employees' safety-related behavior, as well as the safety-related behavior of the railroads themselves.".

MISCELLANEOUS

SEC. 12. Section 211(c) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 440(c)) is repealed.

The PRESIDING OFFICER. The Chair recognizes the Senator from Nebraska.

Mr. EXON. Mr. President, I am pleased the leadership has scheduled this time for consideration of S. 1539, the Railroad Safety Act of 1987. As chairman of the Surface Transportation Subcommittee, I can say in all confidence that this legislation represents a bipartisan effort by members of the Senate Commerce Committee to improve the safety of rail transportation in the United States. This legis-

lation was drafted following comprehensive hearings held by the Surface Transportation Subcommittee in February and June of this year. Passage of this legislation should do much to benefit travelers and rail workers throughout the Nation.

I am pleased to have as cosponsors of this legislation the chairman of the Commerce Committee, Senator HOLLINGS; as well as Senator DANFORTH, the ranking member of the Commerce Committee; Senator KASTEN, the ranking member of the Surface Transportation Subcommittee, and Senator MIKULSKI, who has taken an active interest in efforts to improve rail safety.

At the outset, the Railroad Safety Act of 1987 would reauthorize the Federal Rail Safety Program for fiscal years 1988 and 1989. This represents an approximately 5 percent increase in funding for the Federal Rail Safety Program during each of these 2 years. With the funds authorized by this legislation the Federal Railroad Administration [FRA] should be able to strengthen the current Federal rail safety programs, as well as undertake the safety initiatives mandated by this legislation.

This legislation is more, however, than a simple reauthorization measure. I say this because it includes important provisions which are designed to close loopholes which exist in our current rail safety laws. This legislation was also drafted to address other important safety needs which were brought to light in our hearings.

One of the principal loopholes this legislation seeks to close is the loophole that exists in current law which prevents the Federal Government from taking enforcement action against an individual who is shown to have violated the Federal rail safety laws. Under current law, if an individual is found to have violated a Federal safety law or regulation, the only enforcement action that the Federal Railroad Administration can take is against that individual's employer—a railroad. The FRA has no authority to take enforcement action against an individual, even for willful or repeated violations.

For example, if a supervisor or manager orders an employee to take out a train in violation of the Federal safety laws, the FRA has no direct enforcement authority against that supervisor or manager. If a rail worker tapes a warning whistle on a train, as appears to have been the case on the Conrail locomotive involved in the Amtrak accident in Chase, MD, the FRA has no current enforcement authority against the individual who may be found to have taped that whistle.

The members of our committee feel strongly that safety is compromised by the current limits on Federal enforcement authority. Under this bill, civil penalties could be assessed for willful violations of the Federal safety laws. Sanctions, such as disqualification from service, could be imposed if an individual's violation is shown to render such individual unfit for performance of a safety-sensitive task.

Mr. President, representatives of rail labor have expressed the concern that the authority provided in this legislation will be used to persecute workers and to let carriers off the hook. Well, I would like to say that nothing could be farther from the intentions of this Senator and the cosponsors of this legislation. This bill simply seeks to ensure that individuals can be held accountable for willful violations or other actions which threaten safety.

This legislation is not intended to let carriers off the hook in any way. To the contrary, this legislation increases the current maximum civil penalty that may be imposed from the current $2,500 per day per violation maximum to a new maximum of $10,000 per day per violation. It is the committee's intent to put some teeth in the penalties that may be assessed. These penalties are to be vigorously pursued against carriers when violations are shown to exist and it is our intention that actions against rail carriers will continue to serve as the FRA's primary enforcement mechanism.

The committee report also seeks to clarify a point that I will reiterate today. That is the committee's intent that civil penalties will only be imposed where an individual has a choice and freely elects to violate a safety rule, regulation, standard or order. If an individual has no choice, such as where an action might be ordered by a supervisor or manager, or other personnel, it is the committee's clear intention that the supervisor, manager, agent or other such individual ordering the action shall be held accountable. We will not tolerate any scapegoats. Rather, we are seeking in this legislation to combine Federal enforcement authority against individuals in those limited situations where it may be appropriate, with the broad enforcement authority that exists currently insofar as carriers are concerned.

Mr. President, while I have spent a great deal of time addressing the issue of enforcement authority and seeking to resolve any concerns that may be lingering in this area. I do not wish to understate the significance of the remaining provisions of this legislation. These provisions are of great significance in the context of the totality of this legislation. However, in the interest of time, I will summarize these provisions, referring my colleagues to the committee report accompanying this legislation for a more complete description of these provisions. I will also offer to respond to any questions my colleagues may have regarding these issues.

In summary, the other key provisions of this legislation would require the FRA to conduct a rulemaking and implement a program within 18 months to ensure proper training and qualifications for individuals who operate trains. For the first time, we will have standards in place to ensure that all individuals in these safety sensitive positions are qualified to meet the high degree of responsibility with which they are charged.

This legislation also provides for access to the national driver register for railroad employers, prospective employers, and the FRA. Standards will be established for the use of information regarding an individual's driving record or record of offenses that might call into question an individual's fitness to perform certain safety-sensitive functions.

This bill also includes an important safety provision which is intended to encourage rail workers to report safety violations when they occur. This would be accomplished by the provision in this bill which authorizes punitive damages of up to $10,000 for employees who are harassed for reporting safety violations. Specifically, current law limits damages to those situations in which harassment takes the form of job loss or other direct monetary damages. This bill recognizes that harassment has equally chilling effects in whatever forms it takes and seeks to stamp this out by authorizing punitive damages in those cases where remedies do not exist in current law.

This legislation includes a number of other significant provisions, including ones authorizing safety-related improvements on Amtrak, clarifying the FRA's safety jurisdiction over newly emerging high-speed rail systems, clarifying the FRA's subpoena authority, and requiring a report to Congress on proposals to assess user fees to railroads and others to cover the costs of the Federal rail safety programs.

I would like to also note at this point that there are several amendments to be considered in connection with this legislation. I am hopeful that none of these will prove to be controversial, and all that I am currently aware of, have the support of the committee and myself, as subcommittee chairman.

The first of the amendments that I expect to be considered will be a committee amendment that proposes to update the older rail safety laws to ensure that the maximum civil penalty levels contained therein are brought in line with the new $10,000 maximum authorized in this legislation. The committee amendment also seeks to establish greater consistency between the older laws and S. 1539 by providing for Federal authority over individuals—both management and labor, as well as carriers, and by updat-

ing the older safety laws so that their jurisdictional reach is as broad as the 1970 Safety Act and S. 1539. Finally, the committee amendment proposes to amend the Hours of Service Act to increase the maximum civil penalty that may be assessed for violations of that act.

I would like to conclude these opening remarks by restating my belief that approval of this legislation will do much to improve the level of rail safety in this country. It is an important piece of legislation. It is one that has received a great deal of consideration and thought on the part of myself, other members of the committee and of the Senate. I wish to thank my colleagues who have worked closely with me in the development of this legislation. I strongly urge its approval.

Mr. President, I would simply say that we have one technical amendment, a committee amendment, that I will offer in a few moments. Then we have floor amendments, important amendments all, but amendments that have been agreed to. I believe in the interest of conserving time we can move speedily on this bill, and at an appropriate time when we go to third reading I will ask for the yeas and nays on the bill.

At this time I hope the Chair would see fit to recognize my colleague and coworker on this bill, the Senator from Wisconsin for any statement that he has.

The PRESIDING OFFICER. The Senator from Wisconsin, Senate KASTEN, is recognized.

Mr. KASTEN. Thank you, Mr. Chairman. Thank you, Mr. President.

Mr. KASTEN. Mr. President, I am pleased to be a cosponsor of S. 1539, the Railroad Safety Act of 1987. On January 4, 1987, over 170 rail passengers were injured and 16 died as a result of a terrible Conrail/Amtrak crash near Chase, MD. S. 1539 represents a straight forward and bipartisan effort by members of the Senate Commerce, Science and Transportation Committee to make sure that another completely preventable tragedy like the one at Chase won't happen again.

Key elements of this proposal are: First, authorization of funding levels for rail safety programs of $40.6 million for fiscal year 1988 and $41.8 million for fiscal year 1989; second, Federal Railroad Administration [FRA] authority to sanction and penalize individuals for willful violations of rail safety laws; third, an increase in FRA's maximum penalty level from $2,500 to $10,000 per violation per day; fourth, FRA establishment of minimal qualifications, licensing, or a program of review and approval of railroad qualifications standards for engineers; fifth, access to National Driver Register information on employees and prospective employees by FRA and railroad employers; sixth, Northeast Corridor/Amtrak improvements; seventh, FRA jurisdiction over high speed rail systems; eight, expedition of harassment claims through Adjustment Board proceedings with damages not to exceed $10,000; and ninth, a DOT study on the feasibility of establishing user fees to fund railroad safety programs.

I would like to comment on four of these provisions for purposes of further clarification.

LIABILITY OF INDIVIDUALS

S. 1539 provides the Secretary of Transportation with authority to sanction and penalize individuals for violations of the Federal safety laws.

It is important to understand that this provision is not intended to disrupt labor-management relations on the individual railroads. Furthermore, the legislation is not intended to direct the Secretary to find and punish a "culpable" individual for each and every rule violation detected by the FRA. That would create an intolerable situation for rail employees and management alike.

As we discover with the Chase, MD, accident, the tampering with and disabling of critical safety equipment such as warning signals and automatic braking systems in locomotives has become pervasive. What is intended by S. 1539 is that the Secretary have clear authority to penalize individuals who willfully violate safety laws so that such dangerous practices will occur no longer.

REMOVAL OF EMPLOYEES FROM SAFETY-SENSITIVE POSITIONS

Section 3(d) of the Railroad Safety Act of 1987 would authorize the Secretary of Transportation to prohibit a railroad employee from serving in a safety-sensitive capacity if it is determined that he or she is unfit to perform the tasks required in that position.

Because such action would be subject to judicial review, it is possible that the Secretary's decision could be reversed. My understanding is that the railroads will not be liable for any damages, such as back wages, that might be claimed as a result of an order reinstating an employee who had been suspended or disbarred by an action of the Secretary.

MAXIMUM CIVIL PENALTY LEVELS

S. 1539 increases the current maximum civil penalty per violation per day from the $2,500 level set in 1970 to $10,000. Commerce Committee members believed that in order for penalties to act as a real deterrent to the commission of safety violations, inflation since 1970 needed to be taken into account.

At the same time, the committee does not intend for this adjustment to result in an across-the-board increase in all penalty assessments. Simply stated, we are not directing the Secretary to multiply by four every entry in the penalty schedules currently published by the FRA.

Instead, as indicated in the committee report, the Secretary is expected "to act expeditiously to set penalty levels commensurate with the severity of violations, with imposition of the new maximum penalty reserved for violation of any regulation where warranted by exceptional circumstances."

It is my understanding that the higher penalties will not be assessed unless there are truly "exceptional circumstances," as, for example, where there is a grossly negligent violation or a pattern of repeated violations creating an imminent hazard which has caused, or could result in, injury or death. Isolated violations or violations which do not present an imminent hazard would not be penalized at the higher levels.

ANTI-HARRASSMENT PROVISIONS

The Railroad Safety Act of 1987 amends section 212 of the 1970 Safety Act to permit the award of damages to an employee wrongfully discriminated against, even if the employee was not discharged, suspended, or subjected to specific monetary losses. The damages, including punitive damages, are not to exceed a maximum total of $10,000.

The establishment of this $10,000 maximum does not imply that each award should reach that level. Not every aggrieved employee will suffer damage to the same extent, and not all discriminatory actions will justify the imposition of substantial punitive damages. Accordingly, the extent of damages awarded will vary as the circumstances warranting punitive damages vary. My understanding of the intent of this provision is that the maximum of $10,000 only would be awarded in cases where there are compelling reasons for doing so.

In closing, I would note that today's limited amendments to S. 1539 are in keeping with the straight-forward approach we promoted when we reported the Railroad Safety Act of 1987 from the Commerce Committee. It is my sincere hope that during this Congress our colleagues in the other body also will approve legislation which is simple, direct and to the point with regard to improving rail safety. I believe the stakes are too high to do otherwise.

The tragic Chase, MD, accident provided clear and convincing evidence of the need to ensure better the safety of rail passengers and rail employees. I urge my colleagues to support S. 1539.

Mr. DANFORTH. Mr. President, today I am pleased to rise in support of S. 1539, the Railroad Safety Act of 1987, which I cosponsored earlier this year.

On January 4, 1987, 170 innocent rail passengers were injured and 16

died as a result of the tragic Conrail/Amtrak accident near Chase, MD. Indications are that the engineer and brakeman of the Conrail locomotives were high on drugs at the time they ran through several stop signals onto the tracks in front of the Amtrak train. The signal equipment on the cab of the Conrail locomotive did not warn the engineer of the impending danger because it had been purposefully disabled.

Since that tragic day we have learned of other rail incidents where drugs and alcohol have been a factor, in spite of the Federal Railroad Administration's [FRA] existing, but limited, drug testing program. In response, just last week the Senate approved an amendment I cosponsored to provide for random drug and alcohol testing of engineers, brakemen, and other railroad employees whose actions affect the safety of passengers and fellow employees.

During the Commerce Committee hearings on the Conrail/Amtrak accident and related discussions on overall rail safety we learned how widespread the disabling of safety equipment on locomotives has become. Since the accident, the FRA has reported over 100 incidents where signal devices, alerter whistles, and automatic braking systems have been tampered with, rendering them useless. Today, we have an opportunity to address this serious problem.

S. 1539 represents the second half of the Commerce Committee's straight forward and bipartisan efforts to make sure that another completely preventable tragedy like the one at Chase won't happen again. I urge my colleagues to join me in support of this important legislation.

Mr. KASTEN. Mr. President, I share the sentiments of the chairman of our committee. We have done a lot of work on the amendments before us. I think most of them can be agreed to, and I hope we can proceed expeditiously with this legislation.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that I be added as a cosponsor of the Railroad Safety Act, S. 1539.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LAUTENBERG. Mr. President, unless the floor manager wants the floor, I have a brief amendment I would like to send to the desk.

Mr. EXON. If the Senator from New Jersey will yield for a moment or two, there are one or two things we have to take care of. I know he has an amendment I think both sides have agreed to, and we will be glad to proceed to that in a few moments. Is that satisfactory?

Mr. LAUTENBERG. Absolutely.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. HOLLINGS. Mr. President, I wish to offer my strong support for passage of S. 1539, the Railroad Safety Act of 1987. I am pleased to serve as a cosponsor of this legislation which is the product of a great deal of effort on the part of the chairman of the Surface Transportation Subcommittee, Senator EXON. My colleague has sought to come up with a fair piece of legislation which seeks to make improvements in the Federal rail safety program while balancing the interests of the public, railworkers and recognizing constraints on the Federal budget. I believe that Senator EXON has accomplished this through this legislation, for which he is to be commended, along with those other members who have worked closely with him, including Senators DANFORTH, KASTEN, ADAMS, LAUTENBERG, and MIKULSKI.

Mr. President, the Amtrak/Conrail accident in Chase, MD, on January 4, serves as a continuing reminder of the tragic consequences that can ensue when safety is compromised. That accident caused many to recognize the importance that needs to be placed on rail safety. This was something that has been known for years to railworkers, the industry, and others. I fear, however, that this was not as widely acknowledged on the part of some members of the public as it should have been. That has changed.

The legislation that is being proposed today seeks to strengthen the Federal role in ensuring safety in the rail industry. It would accomplish this by closing the loophole that currently prevents the Federal Railroad Administration from taking enforcement action against individuals who willfully violate the Federal safety laws or who pose a serious safety threat. Passage of this legislation would ensure that individuals, both management and labor, are held accountable for their actions. The Department of Transportation has enforcement authority when aviation and motor carrier safety laws are violated and it is only appropriate that similar authority be extended insofar as the rail industry is concerned.

At the same time, this legislation seeks to reaffirm a strong enforcement role against rail carriers. Indeed, it is the committee's intention that this should remain as the primary enforcement tool used by the Federal Railroad Administration. For this reason, S. 1539 increases the maximum civil penalty that may be assessed for violation of the Federal safety laws from the current $2,500 maximum civil penalty to a new maximum of $10,000 per day per violation. This more than makes up for the effects of inflation that have undercut the effectiveness of the current maximum civil penalty established in 1970.

The Railroad Safety Act of 1987 also makes a number of other and substantive changes in the Federal safety laws. Adoption of this legislation will result in standards to ensure that operators of trains are properly qualified. It will provide access to the National Driver Register so that information regarding an individual's record of driving offenses can be used to assist in judging that individual's fitness to serve in a safety-sensitive position with a railroad. This legislation also contains important "whistle-blower" protection to ensure that rail employees are encouraged to report safety violations and that all rail employees are protected when they do so.

These are only a number of the important provisions contained within this legislation. Taken as a whole, they represent a significant effort to reaffirm our longstanding commitment to rail safety. This legislation, along with the drug and alcohol testing legislation approved last week as an amendment to S. 1485, the Air Passenger Protection Act, should do much to improve the overall level of rail safety in the United States. I urge its passage.

Mr. EXON. Mr. President, I send an amendment to the desk which essentially is a technical amendment, a committee amendment, and ask for its immediate consideration.

The PRESIDING OFFICER. The Chair states to the Senator from Nebraska that the bill was reported with committee amendments that must be disposed of prior to handling additional amendments.

Mr. EXON. The Chair is correct.

The PRESIDING OFFICER. Is there objection to en bloc consideration and adoption of the committee amendments?

Without objection, the committee amendments are adopted.

Mr. EXON. Mr. President, I move to reconsider the vote by which the committee amendments were agreed to.

Mr. KASTEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1130

(Purpose: To modernize the jurisdictional and penalty provisions of older railroad safety laws and make them consistent with those of the Federal Railroad Safety Act of 1970)

Mr. EXON. Mr. President, I call up my amendment, which I have sent to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Nebraska [Mr. EXON] proposes an amendment numbered 1130.

Mr. EXON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 4, line 10, strike "(j)(1)" and insert in lieu thereof "(i)(1)".

On page 3, between lines 16 and 17, insert the following:

(3) Section 209(c) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 438(c)) is amended by adding at the end the following: "For purposes of this section, an individual shall be deemed not to have committed a willful violation where such individual has acted pursuant to the direct order of a railroad official or supervisor.".

At the end of the bill, add the following:

AMENDMENTS TO SAFETY APPLIANCE ACTS

SEC. 13. The Act of March 2, 1893 (45 U.S.C. 1-7), the Act of March 2, 1903 (45 U.S.C. 8-10), and the Act of April 14, 1910 (45 U.S.C. 11-16), commonly referred to as the Safety Appliance Acts are amended as follows:

(a) The Act of March 2, 1893, is amended—

(1) in the first section (45 U.S.C. 1)—

(A) by striking "common carrier engaged in interstate commerce by";

(B) by striking "in moving interstate traffic"; and

(C) by striking "in such traffic"; (2) in section 2 (45 U.S.C. 2)—

(A) by striking "common carrier" and inserting in lieu thereeof "railroad"; and

(B) by striking "used in moving interstate traffic";

(3) in section 3 (45 U.S.C. 3), by striking "person, firm, company, or corporation engaged in interstate commerce by";

(4) in section 4 (45 U.S.C. 4), by striking "in interstate commerce";

(5) in section 5 (45 U.S.C. 5), by striking "in interstate traffic";

(6) in section 6 (45 U.S.C. 6)—

(A) by striking all before the first semicolon and inserting in lieu thereof the following: "Any such person (including a railroad or any individual who performs service covered under the Act of March 4, 1907, commonly referred to as the House of Service Act (45 U.S.C. 61 et seq.), as in effect on the date of enactment of the Railroad Safety Act of 1987, or who performs other safety-sensitive functions for a railroad, as those functions are determined by the Secretary of Transportation) using any locomotive engine, running any train, or hauling or permitting to be hauled or used on its line any car in violation of any of the provisions of this Act, shall be liable to a penalty in such amount, not less than $250 nor more than $10,000 per violation (with each day of a violation constituting a separate violation), as the Secretary of Transportation deems reasonable, except that a penalty may be assessed against an individual only for a willful violation, such penalty to be assessed by the Secretary of Transportation and, where compromise is not reached by the Secretary, recovered in a suit or suits to be brought by the United States Attorney for the judicial district in which the violation occurred, in which the individual defendant resides, or in which the defendant has its principal executive office"; and

(B) by adding at the end the following: "For purposes of this section, an individual shall be deemed not to have committed a willful violation where such individual has acted pursuant to the direct order of a railroad official or supervisor."; and

(7) in section 8 (45 U.S.C. 7)—

(A) by striking "common carrier" and inserting in lieu thereof "railroad"; and

(B) by striking "such carrier" and inserting in lieu thereof "such railroad".

(b) The Act of March 2, 1903, is amended—

(1) in the first section (45 U.S.C. 8), by striking "common carriers by" and by striking "engaged in interstate commerce" the second time it appears;

(2) in section 2 (45 U.S.C. 9)—

(A) by striking "common carriers engaged in interstate commerce by railroad" and inserting in lieu thereof "railroads"; and

(B) by striking "engaged in interstate commerce"; and

(3) in section 3 (45 U.S.C. 10), by striking "common carrier" and inserting in lieu thereof "railroad".

(c) The Act of April 14, 1910, is amended—

(1) in section 2 (45 U.S.C. 11), by striking "common carrier" and inserting in lieu thereof "railroad";

(2) in section 3 (45 U.S.C. 12)—

(A) by striking "in interstate or foreign traffic" wherever it appears;

(B) by striking "common carriers" and inserting in lieu thereof "railroads"; and

(C) by striking "common carrier" and inserting in lieu thereof "railroad";

(3) in section 4 (45 U.S.C. 13)—

(A) by striking "common carrier" and inserting in lieu thereof "person (including a railroad or any individual who performs service covered under the Act of March 4, 1907, commonly referred to as the Hours of Service Act (45 U.S.C. 61 et seq.), as in effect on the date of enactment of the Railroad Safety Act of 1987, or who performs other safety-sensitive functions for a railroad, as those functions are determined by the Secretary of Transportation)";

(B) by striking "carrier" wherever it appears and inserting in lieu thereof "person";

(C) by striking "of not less than $250 and not more than $2,500 for each and every such violation," and inserting in lieu thereof the following: "in such amount, not less than $250 nor more than $10,000 per violation (with each day of a violation constituting a separate violation), as the Secretary of Transportation deems reasonable, except that a penalty may be assessed against an individual only for a willful violation, such penalty";

(D) by striking "and recovered" and inserting in lieu thereof the following: "and, where compromise is not reached by the Secretary, recovered"; and

(E) by adding at the end the following: "For purposes of this section, an individual shall be deemed not to have committed a willful violation where such individual has acted pursuant to the direct order of a railroad official or supervisor.";

(4) in section 5 (45 U.S.C. 14), by striking "common carrier" and inserting in lieu thereof "railroad"; and

(5) by amending the first section (45 U.S.C. 16) to read as follows: "That used in this Act, the Act of March 2, 1893 (45 U.S.C. 1-7), and the Act of March 2, 1903 (45 U.S.C. 8-10), commonly known as the Safety Appliance Acts, the term 'railroad' shall have the same meaning as when used in the Federal Railroad Safety Act of 1970 (45 U.S.C. 431 et seq.).".

AMENDMENTS TO LOCOMOTIVE INSPECTION ACT

SEC. 14. The Act entitled "An Act to promote the safety of employees and travelers upon railroads by compelling common carriers engaged in interstate commerce to equip their locomotives with safe and suitable boilers and appurtenances thereto", approved February 17, 1911 (45 U.S.C. 22 et seq.), is amended—

(1) by amending the first section (45 U.S.C. 22) to read as follows: "That the term 'railroad', when used in this Act, shall have the same meaning as when used in the Federal Railroad Safety Act of 1970 (45 U.S.C. 431 et seq.).";

(2) in section 2 (45 U.S.C. 23), by striking "carrier" wherever it appears and inserting in lieu thereof "railroad";

(3) in section 5 (45 U.S.C. 28)—

(A) by striking "common carrier" and inserting in lieu thereof "railroad"; and

(B) by striking "carrier" wherever it appears and inserting in lieu thereof "railroad";

(4) in section 6 (45 U.S.C. 29), by striking "carrier" and "carriers" wherever they appear and inserting in lieu thereof "railroad" and "railroads", respectively;

(5) in section 8 (45 U.S.C. 32), by striking "carrier" wherever it appears and inserting in lieu thereof "railroad"; and

(6) in section 9 (45 U.S.C. 34)—

(A) by striking all before the first semicolon and inserting in lieu thereof the following: "Any person (including a railroad or any individual who performs service covered under the Act of March 4, 1907, commonly referred to as the Hours of Service Act (45 U.S.C. 61 et seq.), as in effect on the date of enactment of the Railroad Safety Act of 1987, or who performs other safety-sensitive functions for a railroad, as those functions are determined by the Secretary of Transportation) violating this Act, or any rule or regulation made under its provisions or any lawful order of any inspector shall be liable to a penalty in such amount, not less than $250 nor more than $10,000 per violation (with each day of a violation constituting a separate violation), as the Secretary of Transportation deems reasonable, except that a penalty may be assessed against an individual only for a willful violation, such penalty to be assessed by the Secretary of Transportation and, where compromise is not reached by the Secretary, recovered in a suit or suits to be brought by the United States Attorney for the judicial district in which the violation occurred, in which the individual defendant resides, or in which the defendant has its principal executive office"; and

(B) by adding at the end the following: "For purposes of this section, an individual shall be deemed not to have committed a willful violation where such individual has acted pursuant to the direct order of a railroad official or supervisor.".

AMENDMENTS TO ACCIDENT REPORTS ACT

SEC. 15. The Act entitled "An Act requiring common carriers engaged in interstate and foreign commerce to make full reports of all accidents to the Interstate Commerce Commission, and authorizing investigations thereof by said commission", approved May 6, 1910 (45 U.S.C. 38 et seq.) is amended—

(1) in the first section (45 U.S.C. 38)—

(A) by striking "common carrier engaged in interstate or foreign commerce by";

(B) by striking "carriers" and by inserting in lieu thereof "railroads"; and

(C) By adding at the end the following: "The term 'railroad', when used in this Act shall have the same meaning as when used in the Federal Railroad Safety Act of 1970 (45 U.S.C. 431 et seq.).";

(2) in section 2 (45 U.S.C. 39)—

(A) by striking from "common carrier" and inserting in lieu thereof "railroad"; and

(B) by striking the last sentence;

(3) in section 3 (45 U.S.C. 40)—

(A) by striking "common carrier engaged in interstate or foreign commerce by "; and

(B) by striking "carriers" and inserting in lieu thereof "railroads";

(4) by amending section 7 (45 U.S.C. 43) to read as follows:

"SEC. 7. Any person (including a railroad or any individual who performs service covered under the Act of March 4, 1907, commonly referred to as the Hours of Service Act (45 U.S.C. 61 et seq.), as in effect on the date of enactment of the Railroad Safety Act of 1987, or who performs other safety-sensitive functions for a railroad, as those functions are determined by the Secretary of Transportation) who violates this act or any rule, regulation, order, or standard issued under this Act or the Federal Railroad Safety Act of 1970 pertaining to accident reporting or investigations shall be liable for a penalty in such amount, not less than $250 nor more than $10,000 per violation (with each day of a violation constituting a separate violation), as the Secretary of Transportation deems reasonable, except that a penalty may be assessed against an individual only for a willful violation, such penalty to be assessed by the Secretary of Transportation and, where compromise is not reached by the Secretary, recovered in a suit or suits to be brought by the United States Attorney for the judicial district in which the violation occurred, in which the individual defendant resides, or in which the defendant has its principal executive office. For purposes of this section, an individual shall be deemed not to have committed a willful violation where such individual has acted pursuant to the direct order of a railroad official or supervisor.".

AMENDMENTS TO HOURS OF SERVICE ACT

SEC. 16. The Act of March 4, 1907, commonly referred to as the Hours of Service Act (45 U.S.C. 61 et seq.), is amended—

(1) in the first section (45 U.S.C. 61)—

(A) in subsection (a), by striking "common carrier engaged in interstate or foreign commerce by";

(B) in subsection (b)(1), by striking all after "term" and inserting in lieu thereof " 'railroad' shall have the same meaning as when used in the Federal Railroad Safety Act of 1970 (45 U.S.C. 431 et seq.).''; and

(C) in subsection (b)(4), by striking "carrier" and inserting in lieu thereof "railroad";

(2) in section 2 (45 U.S.C. 62), by striking "common carrier" wherever it appears and inserting in lieu thereof "railroad";

(3) in section 3 (45 U.S.C. 63), by striking "common carrier" and inserting in lieu thereof "railroad";

(4) in section 3A (45 U.S.C. 63a), by striking "common carrier" and "carrier" wherever they appear and inserting in lieu thereof "railroad";

(5) in section 4 (45 U.S.C. 64), by striking "common carrier" and inserting in lieu thereof "railroad";

(6) in section 5 (45 U.S.C. 64a)—

(A) by amending subsection (a)(1) to read as follows:

"(a)(1) Any person (including a railroad or any officer or agent thereof, or any individual who performs service covered by this Act, or who performs other safety-sensitive functions for a railroad, as those functions are determined by the Secretary of Transportation) that requires or permits any employee to go, be, or remain on duty in violation of section 2, section 3, or section 3A of this Act, or that violates any other provision of this Act, shall be liable for a penalty of up to $1,000 per violation, as the Secretary of Transportation deems reasonable, except that a penalty may be assessed against an individual only for a willful violation, such penalty to be assessed by the Secretary of Transportation and, where compromise is not reached by the Secretary, recovered in a suit or suits to be brought by the United States Attorney for the judicial district in which the violation occurred, in which the individual defendant resides, or in which the defendant has its principal executive office. It shall be the duty of the United States Attorney to bring such an action upon satisfactory information being lodged with him. In the case of a violation of section 2 (a)(3) or (a)(4) of this Act, each day a facility is in noncompliance shall constitute a separate offense. For purposes of this section, an individual shall be deemed not to have committed a willful violation where such individual has acted pursuant to the direct order of a railroad official or supervisor.";

(B) in subsection (a)(2), by striking "the common carrier" and inserting in lieu thereof "such person";

(C) in subsection (c), by striking "common carrier" and inserting in lieu thereof "railroad"; and

(D) in subsection (d), by striking "carrier" and inserting in lieu thereof "railroad".

AMENDMENTS TO SIGNAL INSPECTION ACT

SEC. 17. Section 26 of the Act of February 4, 1887 (49 App. U.S.C. 26) is amended—

(1) by amending subsection (a) to read as follows:

"(a) The term 'railroad' as used in this section shall have the same meaning as when used in the Federal Railroad Safety Act of 1970 (45 U.S.C. 431 et seq.).";

(2) in subsection (b), by striking "carrier" wherever it appears and inserting in lieu thereof "railroad", and by striking "carriers" and inserting in lieu thereof "railroads";

(3) in subsection (c)—

(A) by striking "carrier by"; and

(B) by striking "carrier" wherever it appears and inserting in lieu thereof "railroad";

(4) in subsection (d), by striking "carrier" wherever it appears and inserting in lieu thereof "railroad";

(5) in subsection (e), by striking "carrier" and inserting in lieu thereof "railroad";

(6) in subsection (f), by striking "carrier" and inserting in lieu thereof "railroad";

(7) in subsection (h)—

(A) by amending the first sentence to read as follows: "Any person (including a railroad or any individual who performs service covered under the Act of March 4, 1907, commonly referred to as the Hours of Service Act (45 U.S.C. 61 et seq.), as in effect on the date of enactment of the Railroad Safety Act of 1970, or who performs other safety-sensitive functions for a railroad, as those functions are determined by the Secretary of Transportation) which violates any provision of this section, or which fails to comply with any of the orders, rules, regulations, standards, or instructions made, prescribed, or approved hereunder shall be liable to a penalty in such amount, not less than $250 nor more than $10,000 per violation (with each day of a violation constituting a separate violation), as the Secretary of Transportation deems reasonable, except that a penalty may be assessed against an individual only for a willful violation, such penalty to be assessed by the Secretary of Transportation and, where compromise is not reached by the Secretary, recovered in a suit or suits to be brought by the United States Attorney for the judical district in which the violation occurred, in which the individual defendant resides, or in which the defendant has its principal executive office."; and

(B) by adding at the end the following: "For purposes of this section, an individual shall be deemed not to have committed a willful violation where such individual has acted pursuant to the direct order of a railroad offical or supervisor.".

(8) by striking "Commission" wherever it appears and inserting in lieu thereof "Secretary of Transportation".

Mr. EXON. Mr. President, this amendment would amend the older rail safety laws to bring them more closely in line with the Federal Railroad Safety Act of 1970, as that statute would be amended by S. 1539, with respect to jurisdictional reach, venue, and civil penalties.

Enforcement of the Federal railroad safety laws has long suffered from the jurisdictional differences between the Safety Act and the older laws. The Safety Act applies to all railroads whose activities affect interstate commerce, except for rapid transit lines that are not a part of the general railroad system of transportation. The older laws are presently limited to common cariers engaged in interstate or foreign commerce by rail. Correcting this disparity will eliminate bifurcated enforcement of the safety laws based on the vintage of the particular statute at hand.

The penalty provisions of the older safety laws—except that of the Hours of Service Act—were amended in 1976 to correspond to those of the Safety Act. As the Safety Act is being amended to provide for higher penalty levels and authorize civil penalties against individuals for willful violations, the older laws need to be amended accordingly. In addition, the maximum penalty for violations of the Hours of Service Act would be increased from the current $500 level to a new maximum of $1,000.

This amendment also seeks to clarify that the purpose of imposing civil penalties against individuals is to deter those who, of their free will, decide to violate the rail safety laws. The purpose is not to penalize those who are ordered to commit violations by those above them in the railroad chain of command. Rather, in such cases, the railroad official or supervisor who orders the others to violate the law would be liable for any violations his order caused to occur. One example is the movement of railroad cars or locomotives that are actually known to contain certain defective conditions. A train crew member who was ordered to move such equipment would not be liable for a civil penalty, and his participation in such movements could not be used against him in any disqualification proceeding brought by FRA.

It is my understanding that this amendment has been agreed upon in its current form.

Mr. President, this is a routine amendment, merely explaining in more detail and expanding somewhat on the bill itself.

We are prepared to vote, but I suspect that the able ranking member, who has been extremely helpful all the way through in working out the details of this bill, may have a comment.

Mr. KASTEN. The Senator is correct. We have no objection on this side.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Nebraska.

The amendment (No. 1130) was agreed to.

Mr. EXON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. KASTEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LAUTENBERG. Mr. President, I compliment the chairman of the subcommittee and the ranking member for an excellent piece of legislation. They have worked hard to insure safer travel on the rails, and it is important in terms of timing and in terms of interest that we take up this legislation at this time.

AMENDMENT NO. 1131

(Purpose: To promote railroad safety)

Mr. LAUTENBERG. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New Jersey [Mr. LAUTENBERG], for himself and Ms. MIKULSKI, proposes an amendment numbered 1131.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 10, between lines 2 and 3, insert the following new section:

SEC. 12. The Federal Railroad Safety Act of 1970 is amended by inserting immediately after section 202 the following new section:

"SEC. 202A. (a) Within 180 days after the date of enactment of this section, the Secretary shall issue rules, regulations, standards, and orders requiring that whoever performs the required test of automatic train stop, train control, or cab signal apparatus prior to entering territory where such apparatus will be used shall certify in writing that such test was properly performed, and that such certification shall be kept and maintained in the same manner and place as the daily inspection report for that locomotive.

"(b) Within 30 days of the date of enactment of this section, the Secretary shall issue rules, regulations, standards, and orders requiring the use of automatic train control on all trains operating in the Northeast Corridor by not later than December 31, 1990. The Secretary shall submit a report to the Congress by January 1, 1989, on the progress of this effort, and detail in that report any proposals to modify the requirements in this subsection, and the reasons for such modification.

"(c) The Secretary shall require the installation and use of event recorders on freight trains no later than one year after the date of enactment of this section.

"(d)(1) Within 30 days after the date of enactment of this section, the Secretary shall establish a Northeast Corridor Safety Committee and appoint members to the Committee consisting or representatives of—

"(A) the Secretary;

"(B) the National Railroad Passenger Corporation;

"(C) freight carriers;

"(D) commuter agencies;

"(E) railroad passengers; and

"(F) any other persons or organizations interested in rail safety.

"(2) The Secretary shall consult with the Northeast Corridor Safety Committee on safety improvements in the Northeast Corridor.

"(3) Within 90 days following the date of enactment of this section, the Secretary shall, in accordance with section 333 of title 49, United States Code, convene a meeting of Northeast Corridor rail carriers for the purpose of reducing through freight traffic on Northeast Corridor passenger lines.

"(4) Within one year after the date of enactment of this section, and annually thereafter, the Secretary shall submit a report, including any recommendations for legislation, to the Congress on the status of efforts to improve safety in the Northeast Corridor pursuant to the provisions of this section.".

On page 10, line 4, strike out "SEC. 12." and insert in lieu thereof "SEC. 13."

Mr. LAUTENBERG. Mr. President, I offer this amendment for myself and the distinguished Senator from Maryland [Ms. MIKULSKI].

This amendment incorporates the provisions of sections 3 and 8 of S. 1098, the Rail Safety Improvement Act of 1987, which I introduced on April 28. Its adoption will add to the margin of safety on our rails, particularly those in the Northeast corridor, the most heavily traveled area in our country.

Over the last year, we have seen just how fragile our rail network can be. Added to the strong bill reported by the Commerce Committee, this amendment will help make the system safer.

First, it would require the Department of Transportation to require written certification of predeparture inspections of important safety systems in the cab of a locomotive. Today, there is no formal procedure for these inspections.

The potential for problems resulting from this lack of requirement came to light during a hearing of my Transportation Appropriations Subcommittee into the Chase accident. Without such written certification, there is no accountability; no paper trail to indicate that the important safety systems, such as cab whistles, were in working order prior to leaving a station. Without such certification, it is more difficult for an engineer to call for repairs, and to refuse to take out an ill-equipped engine.

This amendment would require that the engineer, or whoever performs the inspection of automatic train stop, control, or cab signal apparatus, certify in writing that the test was performed, and that the equipment is functioning.

Second, the amendment would require the use of automatic train control on trains in the Northeast corridor not later than December 31, 1990. The Secretary would have to submit a report to Congress by January 1, 1989 on the progress of this effort.

Mr. President, automatic train control could have prevented the tragedy in Chase, MD. We need to have it on our trains, and we need to have it quickly.

In May, the Department of Transportation proposed orders to require that Northeast corridor trains be equipped with ATC. The proposal is a good one, and followed in the wake of a proposal in S. 1098, rail safety legislation I introduced in April of this year. This amendment would ensure that that proposal move forward, and move forward without delay.

The amendment would also require the use of event recorders on freight trains within 1 year of enactment. These event recorders, known more commonly as black boxes, are invaluable assets in determining the cause of accidents, and preventing more accidents.

It is my understanding that Federal Railroad Administrator John Riley shares this view, and that he will move quickly to require the installation and use of event recorders on the Northeast corridor, in accordance with this provision.

This amendment would also establish a Northeast Corridor Safety Committee to look at means of improving safety in the corridor. This committee would include representatives of the Department of Transportation, Amtrak, freight carriers, commuter agencies, railroad passengers, and other interested parties. The committee will provide a regular forum for consideration of safety matters, and a means of bringing together all the users of the corridor for the purpose of promoting safer use of the corridor.

The Department would be required to submit annual reports to the Congress on behalf of the committee. Those reports would include any recommendations for legislation to improve the safety on the corridor.

Finally, the amendment will require the Department of Transportation to work with corridor users to reduce through freight traffic on passenger lines.

Freight and passenger service is mixed to a great degree on the corridor. By all accounts, this mixture is an unsafe one. Heavy freight trains put additional strain on passenger track. Freight use results in increased wear, and the need for more maintenance of the rail infrastructure. Additionally, the slow-moving freight trains impede the smooth flow of passenger traffic, and pose a threat to the safety of our passengers. As we saw in Chase when a freight train moving at 30, or even 50 miles per hour, pulls out onto a track ahead of a passenger trains traveling at 100 miles per hour or more, the result can only be disaster.

In my subcommittee hearings, there was unanimity about the need to reduce the mix of freight and passenger traffic on the same lines. We need to find ways to remove as much freight traffic as feasible from passenger lines. This amendment would help us accomplish this goal.

Mr. President, S. 1539 is a good bill, and I commend the Commerce Committee for their efforts. This amendment will make a good bill better.

Mr. President, I believe this amendment has been cleared with the managers of the bill, and that it is acceptable to them. I ask for its adoption.

The PRESIDING OFFICER. Is there further debate?

Mr. EXON. Mr. President, I will be very brief. I am very pleased that Senator LAUTENBERG has become a cosponsor of the legislation. Senator LAUTENBERG was present at every hearing that we had on this subject. He has been a real leader in the improvement of rail safety overall, carrying on his similar duties over on the Appropriations Committee. He has done an outstanding job and has made significant contributions to this bill. In fact, I would say he was the introducer of the first bill on this subject, I believe in this Congress, and a large part of what has become the committee bill rested and had its base upon the piece of legislation originally promoted by the Senator from New Jersey.

I thank him for his attention, I thank him for his interest, and I thank him for his cooperation and contribution to the bill.

And with regard to the amendment he has just offered, we think it is a very good one. There is no objection on this side. We would be prepared to vote.

Mr. KASTEN. Mr. President, we have had an opportunity to review the amendment and we have no objection to the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from New Jersey.

The amendment (No. 1131) was agreed to.

Mr. EXON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. KASTEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1132

(Purpose: To provide for the initiation of safety measures and other programs at rail grade crossings near densely populated campuses)

Mr. BENTSEN. Mr. President, I have an amendment I send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Texas [Mr. BENTSEN] proposes an amendment numbered 1132.

Mr. BENTSEN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following new section:

MAXIMUM TRAIN SPEEDS

SEC. . The Secretary of Transportation, in consultation with the Federal Railroad Administration, shall, within six months of the enactment of this legislation, institute a rulemaking, as may be necessary, to provide for the safety of highway travelers and pedestrians who use railroad grade crossings at points where trains operate through any densely populated college campus. As determined by the Secretary to be necessary such rulemaking shall require, maximum speed limits for trains guardrails and warning lights at railgrade crossings located on any such campus, and intensified presentation of Operation Lifesaver educational programs on such campuses to familiarize students and other persons with the inherent in dangers of such crossing.

Mr. BENTSEN. Mr. President, the amendment I am proposing has been discussed with the managers on both sides of the aisle. It is to the Railroad Safety Act of 1978. What it would do is provide for the initiation of safety measures through densely populated college campuses. It is my understanding that it has been cleared by both sides of the aisle.

The campus of Texas A&M University in College Station, TX is bisected by a railroad track. Many of the university's 38,000 students are forced each day to cross that track to attend class. I have been informed by university officials that since 1980, four students have tragically lost their lives in accidents on the tracks. I submit that those deaths need not have occurred.

Clearly the ideal solution to this problem would be to move the tracks so that they went around the campus. That, however, has proved to be infeasible. The university administration is instead working on plans to lower the grade of the tracks, thus allowing the students to walk or drive over them. However, to immediately address this serious hazard, I propose that the Secretary of Transportation consider initiating a rulemaking to establish maximum speed limits for trains while operating within the boundaries of college campuses, and to take such other actions as may be required to enhance safety.

This rulemaking would add no additional costs to the Rail Safety Act. More importantly though, this provision provides an ideal arena in which all interested parties can present their views. This amendment will have the effect of bringing universities, local communities, and railroads together to address this dangerous situation, wherever it may occur.

Today, we have an opportunity to correct a great hazard and to enhance the safety of our Nation's rail system. Mr. President, I urge my colleagues to join me in support of this amendment.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. EXON. Mr. President, the amendment offered by the Senator from Texas has been reviewed on this side. We think it is an excellent amendment and addressed a problem that is not unique to any one area of the country, but is something that should be considered all across this Nation wherever a similar situation might presently exist. It has been cleared on this side and we are prepared to vote.

The PRESIDING OFFICER. Is there further debate?

Mr. KASTEN. Mr. President, we have had an opportunity to review the amendment and we are in support of the amendment of the Senator from Texas.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment of the Senator from Texas.

The amendment (No. 1132) was agreed to.

Mr. EXON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BENTSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1133

(Purpose: To make certain amendments to the Rail Passenger Service Act, and for other purposes)

Mr. EXON. Mr. President, I send an amendment to the desk in behalf of the chairman of the committee, Senator HOLLINGS, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Nebraska [Mr. EXON] for Mr. HOLLINGS, proposes an amendment numbered 1133.

Mr. EXON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following:

RAIL PASSENGER SERVICE ACT AMENDMENTS

SEC. . (a) Section 301 of the Rail Passenger Service Act (45 U.S.C. 541) is amended by striking "agency" and inserting in lieu thereof "agency, instrumentality,".

(b) Section 303(a)(1)(E) of the Rail Passenger Service Act (45 U.S.C. 543(a)(1)(E) is amended to read as follows:

"(E) Two members selected by the preferred stockholders of the Corporation, who each shall serve for a term of one year or until their successors have been appointed.".

(c) Section 303(d) of the Rail Passenger Service Act (45 U.S.C. 543(d)) is amended by striking the third sentence and inserting in lieu thereof the following: "The president and other officers of the Corporation shall receive compensation at a level no higher than the general level of compensation paid officers of railroads in positions of comparable responsibility.".

(d) Section 308(a) of the Rail Passenger Service Act (45 U.S.C. 548(a)) is amended by inserting immediately after "also" in the last sentence the following: "provide all relevant information concerning any decisions to pay to any officer of the Corporation compensation at a rate in excess of that prescribed for level I of the Executive Schedule under section 5312 of title 5, United States Code, and".

(e) Section 602(i) of the Rail Passenger Service Act (45 U.S.C. 602(i)) is repealed.

(f) Subsection (b) of the first section of the Act entitled "An Act to amend the Rail Passenger Service Act of 1970 in order to provide financial assistance to the National Railroad Passenger Corporation, and for other purposes", approved June 22, 1972 (Public Law 92-316; 86 Stat. 227), is repealed.

Mr. HOLLINGS. Mr. President, today I offer an Amtrak-related amendment to S. 1539, the Railroad Safety Act of 1987. The first provision of this amendment seeks to stem Amtrak's increasing loss each year of senior level officers. The second and third elements of this amendment are primarily technical in nature.

The first provision of my amendment calls for the elimination of the salary cap of $85,000 which has been imposed on the president of Amtrak since 1975. During the 12 years which have elapsed since this cap was imposed, inflation has eroded the level of the president's salary, as well as those of other officers whose salaries are compressed below the $85,000 rate prescribed for the president.

The salary issue has resulted in a critical loss of experienced personnel and a resultant loss of efficiency at Amtrak. For example, within the past 2½ years, Amtrak has lost 15 to 20 percent of its management personnel at the director level and above.

Among the most valuable officers Amtrak has lost in recent years have been Amtrak's vice president for sales, at an Amtrak salary of $75,000, lost to British Airways at a 100-percent increase in compensation; the executive vice president for law and public affairs, at an Amtrak salary of $76,900, was lost to a local firm at over a 75-percent increase in compensation; the vice president for labor relations (and largely responsible for Amtrak's new labor agreements), at an Amtrak salary of $75,000, was lost to the National Railway Labor Conference at some 20 percent increase in compensation; and finally, Amtrak's associate general counsel (who had been primarily responsible for the litigation arising from the Amtrak-Conrail accident earlier this year), at an Amtrak salary of $64,000, was lost to the Federal Home Loan Mortgage Corporation at more than a 25-percent increase in compensation—and this is not some downtown law firm, this is an independent Government agency that does not have a salary cap.

Mr. President, I am confident that if this amendment is adopted, we will not see a rush to increase salaries at Amtrak. In support of this I ask unanimous consent that a letter to me from W. Graham Claytor, president of Amtrak, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NATIONAL RAILROAD PASSENGER CORP.,
Washington, DC, November 3, 1987.

Hon. ERNEST F. HOLLINGS,
Chairman, Committee on Commerce, Science and Transportation, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I am writing to urge you to include in the Senate's railroad safety legislation language removing statutorily imposed salary caps which presently limit the compensation of Amtrak officers. This statute already provides that salaries of officers of the company are to be fixed by the Amtrak Board of Directors, upon which the Department of Transportation is strongly represented, and which ultimately must justify its actions to Congress each year.

The present pay cap is causing us to lose more and more of our capable upper and middle management officers every year, not only because of the inadequacy of their present salaries but because they see that there is no possibility of significant financial improvement if they are promoted to higher positions. This hemorrhage of talent is increasing every year; currently, for example, one of our most capable senior finance officers has been offered a salary increase of over 75% by a publicly financed commuter agency. While we do not have to and would not attempt to match all salaries in the private sector, or even the state commuter agencies, we must have the ability to respond at least in part to such offers. Since any properly managed company must maintain a reasonable spread between position levels, the statutory cap at Federal Executive Level I puts severe limits on what we can pay even at middle management levels.

In the case of Amtrak, elimination of the statutory cap would not open the company to unbridled escalation of pay. As noted above, our basic statute provides that the appointment and compensation of all company officers is to be effected by our nine-man Board of Directors. By statute these consist of the Secretary of Transportation, the President of the company and seven directors appointed by either the President of the United States or by the Secretary of Transportation.

Such a Board is highly unlikely to be reckless in approving salaries, but it could not successfully do so in any event because of the intensive Congressional oversight to which Amtrak is subject. All of our operations, and particularly our expenses, are closely scrutinized each year and often several times a year by Senate and House Appropriation Subcommittees, as well as by our Senate Committee and Mr. Dingell's parallel House Committee. Under these circumstances there is no real possibility of abuse by Amtrak in the salary area. Experience indicates that any such abuse will be promptly corrected by these oversight committees, and the knowledge that this is so will serve as a strong deterrent to any such effort.

No one recognizes more than my Board and I the budgetary problems we all face. I am satisfied that elimination of the Amtrak pay cap will decrease, not increase Amtrak's need for Federal financial support. Our ability to improve our bottom line—our revenue-to-cost ratio—every year since 1981 has been due largely to hard work by talented management people. At present we are covering 65% of our total operating costs with our revenue—up from 48% a few years ago—and if I can keep capable managers here, this will continue to improve. When our best managers are hired away as they move up in the company, however, our efficiency suffers and our ability to reduce costs and increase revenues diminishes.

The elimination of the pay cap now will not result in any spectacular pay increases, but will give us flexibility to stop the hemorrhage of talent that continues to plague us. I can assure you that the total cost of some desperately needed salary corrections that this will make possible will not exceed $850,000 in FY 1988, and in subsequent years will similarly be modest. With a company having total operating costs of over $1.5 billion, this is a negligible percentage. A failure to take this step could cost us many millions of dollars each year in lost productivity and efficiency.

Finally, I want to make it clear that I am not seeking this for myself. I do not personally require and will not accept a salary above Executive Level I so long as I am with Amtrak. Without elimination of the present salary cap, however, I am doubtful that we could obtain a competent and experienced successor when I retire.

Your help on this most critical issue on which I feel that Amtrak's very future depends is most appreciated.

Sincerely,

W. GRAHAM CLAYTOR, Jr.,
President.

Mr. HOLLINGS. In this letter, Mr. Claytor describes the crisis the pay issue poses for Amtrak and why he feels restraint will be exercised in setting salaries.

I would also like to note that any decision as to the salaries of officers of Amtrak will receive careful scrutiny by the company's board of directors and in Congress. By statute, salaries of officers of Amtrak are fixed by the company's board of directors, upon which the Department of Transportation is

strongly represented, ensuring that the administration's views will be taken into consideration in setting salaries. Amtrak's nine member board, which will continue to approve officers' salaries, consists of the president of the company, the Secretary of Transportation and seven directors appointed by either the President of the United States or the Secretary of Transportation.

Additionally, Amtrak's operations are closely scrutinized each year by Congress and as such it is highly unlikely that elimination of the statutory cap would open the company to unjustifiable escalations of pay. To make certain that this oversight will be carried out, this amendment requires Amtrak to report annually to Congress on any officers' salaries in access of the executive schedule level I, which is the maximum level Amtrak can now pay.

Mr. President, this is not an amendment which calls upon us to debate continuing Federal assistance to Amtrak. Rather, it is an amendment that recognizes that while we currently provide support for Amtrak we have also reduced the level of Federal funding that goes to Amtrak, in order to both meet our budgetary needs and to make Amtrak more efficient. I have been assured that the flexibility that this amendment gives Amtrak will not cost the Federal Government additional money. But in the alternative, the cost of lost productivity, efficiency, as well as the cost of staff recruiting and retraining could prove far more substantial and detrimental.

If we are truly interested in making Amtrak more efficient, we have to see to it that Amtrak has an ability to attract and retain personnel of the caliber needed to fill its executive positions. To accomplish this, the current salary cap must be eliminated.

The second provision of my amendment would allow Amtrak to use tax-exempt bonds in lieu of direct capital grants to leverage additional State and local financing of rail-related projects. A problem in doing this now arises from section 103 of the Internal Revenue Code which indicates that tax-exempt bonds may not be guaranteed—directly or indirectly—by an agency or intrumentality of the United States. In order for Amtrak to overcome this problem, the Rail Passenger Service Act must be amended to make clear that Amtrak is not an instrumentality of the Federal Government and subsection 602(1) deleted to remove the limitation on the discretion of the Secretary of Transportation in deciding whether to guarantee Amtrak loans.

The third and last provision of my amendment is purely technical in nature. It would amend the Rail Passenger Service Act to allow the two Amtrak board of directors selected by the preferred stock holder of the corporation, the Department of Transportation, to serve on the board until their successors are appointed.

Mr. HEINZ. Mr. President, the amendment offered by the distinguished chairman of the Commerce Committee, Senator HOLLINGS, contains two technical provisions that would ensure Amtrak's ability to issue tax-exempt bonds for the rehabilitation of the 30th Street Station in Philadelphia. Let me first express my appreciation to the chairman for agreeing to include these provisions in his amendment.

Mr. President, 30th Street Station is the second busiest station in Amtrak's system, serving 8 million passengers each year. In addition to serving regular Amtrak service along the Northeast corridor, the station is now being used for a new center city rail connection and a high speed rail line to Philadelphia airport. In order to meet this growing demand, a major refurbishing and expansion of the station is essential.

The Amtrak project will consist of complete rehabilitation of the building infrastructure, renovation, and improvements in the main terminal, development of retail space, construction of a new parking facility, and restoration of the building exterior. The project will cost a total of $60 million, to be financed by public and private sources. In addition to significantly improving rail service, the project will create or retain 2,775 jobs, of which 1,575 will be permanent.

Amtrak intends to provide half of the project funds through a tax-exempt bond issue for which the authority was provided in the 1986 Tax Reform Act. However, a possible conflict has been identified between the issuing authority granted to Amtrak in the Tax Act and a provision of the Internal Revenue Code, which prevents any agency or instrumentality of the United States from guaranteeing these bonds.

In order to ensure that this provision of the Internal Revenue Code does not preclude Amtrak from issuing the tax-exempt bonds, the Rail Passenger Service Act [RPSA] must be amended to make clear that Amtrak is not an instrumentality of the Federal Government and subsection 602(i) of the RPSA must be deleted to remove the limitation on the discretion of the Secretary of Transportation in deciding whether to guarantee Amtrak loans.

In the absence of this amendment, Amtrak would have to pursue direct Federal capital grants to leverage State, local, and private financing of the 30th Street Station project, which is far less preferable from a budgetary standpoint than issuance of tax-exempt bonds.

Senator HOLLINGS' amendment includes the necessary amendments to the RPSA. I appreciate the Senator's willingness to cooperate in including these technical amendments, which ensure that Amtrak can help finance the vital 30th Street Station rehabilitation project. I urge adoption of the amendment.

Mr. EXON. Mr. President, the amendment offered by Senator HOLLINGS is an amendment that has been considered at considerable length. It basically has to do with the improvement and efficiency in the operation of the Amtrak system, and I think that we all are very much in favor of that.

The amendment has been cleared on this side and in the interest of saving time I would simply say that we are prepared for the vote.

Mr. KASTEN. Mr. President, we have had an opportunity to review the amendment and we support the amendment.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment of the Senator from Nebraska.

The amendment (No. 1133) was agreed to.

Mr. EXON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. KASTEN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Are there further amendments to be proposed?

AMENDMENT NO. 1134

(Purpose: To provide protections to maintenance-of-way workers and for other purposes)

Mr. ADAMS. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Washington [Mr. ADAMS] proposes an amendment numbered 1134.

Mr. ADAMS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following:

PROTECTION FOR CERTAIN WORKERS

SEC. . (a) No employee shall be disciplined or sanctioned as a result of information discovered through access authorized by this Act to the National Driver Register, where such employee has successfully completed a rehabilitation program subsequent to the cancellation, revocation, or suspension of the motor vehicle operator's license of such person.

(b) Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431), as amended by this Act, is further amended by adding at the end the following:

"(j) The Secretary shall, within one year after the date of enactment of the Railroad Safety Act of 1987, issue such rules, regulations, orders, and standards as may be necessary for the protection of maintenance-of-way employees, including standards for bridge safety equipment, such as nets, walkways, handrails, and safety lines, and requirements relating to instances when boats shall be used.".

(c) Section 2 of the Act of March 4, 1907, commonly referred to as the Hours of Service Act (45 U.S.C. 62), is amended by adding at the end the following:

"(e) As used in section 2(a)(3) of this Act, the term 'employee' shall be deemed to include an individual employed for the purpose of maintaining the right-of-way of any railroad.".

(d) The Secretary of Transportation shall, within one year after the date of enactment of this Act, amend part 218 of title 49, Code of Federal Regulations, to apply blue signal protection to on-track vehicles where rest is provided.

Mr. ADAMS. Mr. President, as the tragic railroad accident in Chase, MD, demonstrates, railroad safety is a vital and pressing concern for the Congress. Federal laws and regulations should be designed to ensure the safest rail system possible for rail passengers, railroad employees, and the communities through which our trains travel.

I would like to thank the distinguished Senator from Nebraska for his fine work on this legislation. The Railroad Safety Act of 1987 provides much needed funds to continue Federal rail safety programs. It also makes certain changes to the Federal Railroad Safety Act of 1970 to improve the enforcement of rail safety laws. I support these changes, especially the provisions in the bill that establish a program to ensure proper training of individuals who operate trains and the section that protects employees from harassment and discrimination for reporting safety violations.

I believe, however, that additional steps must be taken to ensure a safe workplace for railroad employees. Remarkably, 10 percent of all railroad employees are injured annually on the Nation's railroads. The amendment that I am offering would accomplish the following:

First, it would require the Federal Railroad Administration to issue standards for the protection of maintenance-of-way employees. Because maintenance-of-way employees are required to work on bridges crossing large bodies of water, expressways, turnpikes, and busy city streets, there is a need to protect against the hazards associated with this work. This amendment would require standards for bridge safety equipment such as nets, walkways, handrails, and safety lines.

Second, the amendment addresses the living conditions of maintenance-of-way employees when they are required to work away from home during the construction season and live in what are known as camp cars or bunk cars. This amendment would expand the statutory standards for clean, safe, and sanitary camp cars contained in the Hours of Service Act to apply when camp cars are used for maintenance-of-way workers.

This amendment also revises the bill's provisions allowing access by railroads to an employee's driving records. To avoid unfair discrimination against an employee or job candidate, the amendment prohibits carriers from sanctioning an employee as a result of information discovered from the National Driver Registry where such employee has successfully completed a rehabilitation program subsequent to the revocation or suspension of his or her driver's license.

Mr. President, I believe these changes will improve railroad safety and I urge the amendment's adoption.

Mr. President, I have discussed this amendment with the distinguished Senator from Wisconsin. I believe that this is agreed to by both sides.

I thank both of the distinguished Senators for the cooperation we have received.

I think it has been well stated by the Senator from Nebraska, and I have been following this debate by the Senator from Wisconsin, that as the tragic railroad accident in Maryland demonstrates, railroad safety is a vital and pressing concern for Congress. Federal laws and regulations need to be designed to handle this problem.

I think that the distinguished chairman of the subcommittee has done an excellent job of doing this. I want to compliment him on that and I appreciate the consideration they have given to our amendment and I hope that the amendment will be adopted.

I thank the Senator from Nebraska.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. EXON. Mr. President, I thank my friend and colleague from Washington, who has vast experience in the area of ground transportation with the distinguished record that he had in a previous administration, as the Secretary that had direct responsibility for everything with regard to transportation.

Senator Adams is an extremely valued member of the committee and especially the Surface Transportation Subcommittee, and his expertise as a former Secretary of Transportation has been of invaluable assistance to the committee. We thank him for all of his efforts and especially this one.

I will simply say to him that during the several hearings that we had on this he took part and very actively. There were a lot of things that were very vividly brought to my attention, not the least of which was the conditions of the maintenance of way workers and some of the testimony that we heard in that regard. This is an important amendment to attempt to correct that situation.

I congratulate him for offering the amendment. It has been cleared on this side and we are prepared to vote.

Mr. KASTEN. Mr. President, we have had an opportunity to review this amendment and we are in support of this amendment.

The PRESIDING OFFICER. Is there further debate on the amendment of the Senator from Washington?

Mr. ADAMS. Mr. President, I believe the Senator from Maryland has a comment she might like to make.

I thank the Presiding Officer very much and I thank very much the ranking member and chairman of the subcommittee. The remarks were most kind and I appreciate them.

Is there further debate on the amendment of the Senator from Washington? If not, the question is on agreeing to the amendment of the Senator from Washington.

The amendment (No. 1134) was agreed to.

Mr. EXON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. ADAMS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Are there further amendments?

Ms. MIKULSKI. Mr. President, I rise not to offer an amendment, but in strong support of the Railroad Safety Act. Just 9 short months ago, 2 days before I was sworn in as a Maryland's junior Senator, my State suffered the worst rail disaster in its history.

On January 4, 1987, a Conrail locomotive collided with an Amtrak passenger train near Chase, MD, taking the lives of 16 innocent people. A few weeks ago, hundreds of the families and friends of those victims, spent a day on Capitol Hill urging the Senate to pass this legislation that is now pending before the Senate.

The day of the accident, I went to the hospital near Chase where victims were treated. I saw firsthand the grief their loved ones suffered. Yet despite this personal tragedy, they have not let their personal sorrow become an end in itself.

Instead, they have vowed that other families across the Nation should not be forced to suffer from a rail transportation system that too often does not make safety its top priority.

This senseless tragedy was compounded by the knowledge that it could have, and should have, been prevented because it was caused by human error, not the failure of technology.

Standard devices that should have warned the Conrail locomotive's oper-

ators of the approaching Amtrak train were either disconnected or ignored.

We cannot compensate for the enormous loss which so many families suffered from the Chase crash. Nevertheless, this body has a responsibility to them and to all citizens that the Northeast corridor rail system is operated in the safest way possible.

In response to January's tragedy, Senator LAUTENBERG and I introduced legislation designed to correct the most serious flaws in our rail safety system. Many of the provisions in that bill were the direct result of suggestions from Maryland families who lost a family member or friend in January.

I am pleased that the Commerce Committee has included most of the provisions in that bill into S. 1539, the Rail Safety Act of 1987.

First, it guarantees that national training standards will exist for all railroad operators. This will correct a serious flaw in our current system—no common standards to guarantee all operators are properly trained in these highly safety-sensitive positions.

Second, the bill increases the civil penalties for violation of safety regulations and makes those who violate them personally liable for these fines. This is a new and important requirement because it holds those who violate the rules of safety responsible for their actions.

Third, the bill makes eligible for Federal funding certain safety improvement projects for Amtrak's lines along the Northeast corridor.

These include installing baggage restraints and seat back guards for passengers, as well as electronic warning devices for locomotives.

Finally, I am delighted to join with Senator LAUTENBERG in offering an amendment requiring the installation of automatic train controls on all Northeast corridor trains by 1990. This step, coupled with the amendment's establishment of a Northeast Corridor Safety Committee, will help reduce the threat of accidents on the corridor in the years ahead.

These improvements will make trains on the corridor more safe despite the high volume of traffic between Boston and Washington.

Passage of this legislation will not ease the pain or remove the sorrow from January's tragedy. But it is the first step to returning safety as the first and most important goal of our Nation's rail system, and sparing other families from the anguish of a rail safety system gone awry.

I compliment the chairman of the committee on the excellent work that has been done and those who offered perfecting amendments.

I urge the adoption of this bill.

Mr. EXON. Mr. President, I thank the Senator from Maryland for her kind words. I salute her for all the help that she has been to the committee on the work that went into developing this piece of legislation. She is an original cosponsor. We appreciate very much her work, her dedication, and her help.

Mr. ADAMS. Mr. President, I rise to discuss with the distinguished manager of the bill a question that I have about the changes made by the bill to the Federal Rail Safety Act of 1970. The bill would amend the law to grant the Federal Railroad Administration enforcement authority over employees now covered by the Hours of Service Act and other employees who perform safety-sensitive functions. I wonder if the Senator from Nebraska would clarify whether the bill would apply to railroad managers and supervisors.

Mr. EXON. I thank the distinguished Senator from Washington for raising this question. I would like to assure the Senator that it is the intent of the committee that the FRA's enforcement authority would apply to railroad managers, supervisors, and agents when they perform safety-sensitive functions and when they could be in a position to direct that violations of safety regulations be committee. By no means are we intending to limit applicability of enforcement authority to labor. In fact, one of the prime purposes of the change made by the bill is to allow the FRA to impose penalties on supervisors or managers that order employees to operate trains with safety violations. I would also like to point out to the Senator from Washington that the changes made by this bill to the older rail safety laws are also intended to apply to railroad managers and supervisors, as well as other rail workers.

Mr. ADAMS. I thank the distinguished manager for his assistance and I have one additional question. The bill amends the civil penalties provision of the Federal Rail Safety Act of 1970 by substituting the word "may" for the word "shall." Could the distinguished manager clarify whether this change was intended to modify the FRA's enforcement policies?

Mr. EXON. Mr. President, in answer to the inquiry from the Senator from Washington, this change clarifies the Secretary's authority to use discretion in determining when to assess penalties against railroads and individuals. The committee thought this change necessary especially in light of the extension of FRA's authority over individuals; it does not signal any intention on the part of the committee that the enforcement of FRA's safety regulations against the railroads should be diminished in any way.

Mr. LAUTENBERG. Mr. President, I rise in strong support of S. 1539, the Railroad Safety Act of 1987.

The January 4 crash of an Amtrak train with a Conrail locomotive in Chase, MD, pointed out all too clearly the deficiencies in our rail system. That tragedy, which resulted in the loss of 16 lives, 175 injuries, and more than $1 million in property loss, showed just how fragile the system is.

Mr. President, I went to Chase the morning after the accident. The loss and devastation was almost beyond comprehension. No one witnessing the scene could have been untouched by what they saw.

As did others, I wondered just how such a tragedy could have happened; what was wrong with our system that allowed the accident; and what needed to be done to prevent it from happening again. I left Chase that day determined to do something about it, and determined to do my best to try to reduce the chances of such a tragedy from ever happening again.

On January 20, I held a hearing of the Transportation Appropriations Subcommittee to investigate the accident. At that hearing, we heard from officials representing Amtrak, Conrail, and rail labor. We also heard from families of the victims. Dr. Roger Horn, who lost his daughter in that accident, provided valuable well-thought consideration of the safety problems in our rail system. Along with other family and friends of victims, including Arthur and Anne Johnson, the Horn family turned their grief into a positive force. That positive force was so visibly demonstrated several weeks ago when hundreds of family and friends of victims, and some of those injured in the crash, came to Washington. That coalition, known as Safe Travel America, came to push for prompt, effective action on rail safety. The passage of this legislation today is due in no small part to the efforts of Safe Travel America. I want to take this opportunity to express my sincere appreciation and commendation for their efforts.

Many important points were raised at the January 20 hearing. Weaknesses in our rail safety system were exposed. Based on that hearing, I put together a nine-point letter to then-Secretary of Transportation Dole outlining the areas I felt needed to be addressed. I ask unanimous consent that the text of my letter, dated February 2, 1987, be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered. (See exhibit 1.)

Mr. LAUTENBERG. One of those recommendations has already been acted upon. In May, Secretary Dole proposed an order to require the installation and use of automatic train control on all Northeast corridor trains. With acceptance of my amendment today, we take another step toward ensuring that this important safety equipment be included on corridor trains in a timely manner.

On April 28, I introduced S. 1098, the Rail Safety Improvement Act of 1987. This legislation incorporated the recommendations in my letter to Secretary Dole. I was pleased to be joined in introducting this bill by the distinguished junior Senator from Maryland, Senator MIKULSKI.

S. 1098 was a focus of Commerce Committee hearings in the spring and summer. I am pleased to note that many of the provisions in S. 1098 were included in S. 1539, the bill we are considering today.

As in S. 1098, S. 1539 would increase penalties for violations of Federal safety laws and regulations. It would also make individual employees liable for violation of those laws or regulations.

S. 1098 would require minimum Federal standards, through a license, for railroad operators. It would also allow the Federal Railroad Administration to have access to the National Driver Register when evaluating train operators. We have a right to know what type of person is behind the controls of our trains, whether they be carrying hundreds of passengers, freight, or hazardous cargo. The accident at Chase showed us how little we now know.

S. 1539 contains the requirement of minimum Federal standards, and would have the Secretary consider a licensing program as part of that effort. It would also allow access to the NDR. An amendment accepted today reinforces the intent of the NDR access provision, and clarifies its use.

The bill before us also includes protection of employees against discrimination. S. 1098 provided similar whistle-blower protection.

Section 7 of S. 1539 expands the list of important projects eligible for Northeast corridor improvement project funding. This provision was included as section 9 of the Rail Safety Improvement Act.

Mr. President, several other important provisions have been adopted on the floor today. My amendment, excompassing sections 3 and 8 of S. 1098, would require written certification of predeparture inspections, require the installation and use of automatic train controls and event recorders on trains in the Northeast corridor, and lead to the reduction of through-freight traffic on the corridor.

Additionally, provisions have been adopted to ensure the rights of maintenance of many employees, and to clarify the sections of S. 1539 pertaining to individual liability and access to the National Driver Register.

Mr. President, the Railroad Safety Act is a strong bill. It represents the combined efforts of this body, labor, industry, and concerned citizens. I am proud to have played a part in their process, and commend the others who have been involved.

I would especially like to commend the distinguished manager of the bill, Senator EXON, for his efforts. As chairman of the Surface Transportation Subcommittee, he took the initiative to move this important legislation this session. The bill he has put together will go a long way toward ensuring the safety of those people traveling on, working on, or living near our rails.

Mr. President, I urge my colleagues to support this legislation.

EXHIBIT 1

U.S. SENATE,
COMMITTEE ON APPROPRIATIONS,
Washington, DC, February 2, 1987.

Hon. ELIZABETH H. DOLE,
Secretary of Transportation, Department of Transportation, Washington, DC.

DEAR MADAM SECRETARY: On Tuesday, January 20, the Subcommittee on Transportation and related agencies held a hearing on the tragic crash of AMTRAK's Colonial with three Conrail locomotives near Chase, Maryland earlier this month. Sixteen lives were lost in the crash and the preliminary damage estimates exceed $15 million.

The purpose of the hearing was to assess the implications of this accident for the performance of our rail safety system and for the management and funding of the rail safety program which you administer. Passenger safety was, of course, of particular concern, especially on the high speed trackage of the Northeast Corridor.

The hearing raised serious questions on several crucial matters of rail safety. There was conflicting testimony, for example, on the priority that safety is given in day to day rail operations, on the adequacy of procedures for assuring compliance with safety rules, on the effectiveness of your enforcement program, and on how best to achieve an alcohol and drug free environment in the rail industry. These are important, complicated, and contentious issues. The Subcommittee will carefully evaluate the hearing record and supplementary information before reaching any final conclusions. Some of the recommendations we heard will require legislation which lies beyond the jurisdiction of the Appropriations Committee.

This is no excuse for delay, however. In my judgment, there are certain measures that can and should be taken now to improve rail safety and restore public confidence.

First, let me commend you for announcing your intention to make elimination of drug and alcohol abuse from public transportation a priority objective. The development of a sensible and effective rule for the aviation industry is long overdue. I urge you to make every effort to expedite the rulemaking initiated by FAA early this month.

I also share your goal of strengthening the effectiveness of the Federal Railroad Administration's drug and alcohol abuse rule. While Congress considers legislation authorizing procedures in addition to those already in place, it is clear that the administration of the current rule can be improved.

In this regard, I have two recommendations. Train crews should be required to check in face-to-face with a supervisor when they come on duty. My understanding is that there is no such requirement at present. Such a check-in procedure would, I believe, both deter employees from reporting for work while under the influence of alcohol or drugs and improve the chances that those who do would be detected and removed from service.

FRA should aggressively enforce Subpart E of the rule (relating to Identification of Troubled Employees). Every carrier should be required to establish a referral and rehabilitation program consistent with the provisions of Subpart E. In addition, FRA should systematically monitor these programs to assure that they are being effectively implemented and managed. Where necessary FRA should provide technical assistance to both the carrier and employee representatives to assure that troubled employees are identified, removed from service, and given the opportunity for rehabilitation.

One final point on drug testing in general should be mentioned. I believe that any additional rules should include provision for an amnesty period before the new testing procedures are put into effect. During this period, employees with drug dependencies should have the right to disclose their problem and seek rehabilitation without fear of censure, penalty, or sanction. Such an amnesty provision would, in my judgment, be both fair and effective in achieving the objective of a drug-free environment in safety-critical occupations.

Second, the investigative record makes it painfully clear that this accident would not have happened had the Conrail locomotive been equipped with Automatic Train Control (ATC). The National Transportation Safety Board has recommended ATC on the Northeast Corridor since the early 1970's. The Board has recently reaffirmed that recommendation in the wake of the Colonial tragedy. I urge you to move promptly to institute a rule requiring appropriate ATC on all trains in the Corridor as soon as practicable.

Third, for many years now, concerns have been raised about the mixed use of Corridor high speed trackage for both passenger and freight service. Mr. Richard B. Hasselman, Senior Vice President of Conrail, indicated at our hearing that his company would be willing to consider further measures to reduce freight traffic on the Corridor. I urge you to seize this opportunity to work with AMTRAK and Conrail to develop a feasible plan for moving as much freight as possible off the Corridor, in the near term, and restricting what remains to off-hours for passenger traffic.

Fourth, the record also indicates the need to strengthen procedures for assuring compliance with predeparture tests and inspections and, more generally, with safety-related maintenance requirements. As you know, the FAA requires the commercial aviation industry to document compliance with mandatory, well-defined maintenance schedules. The core of the system is certification by different individuals at several points in the process that the required maintenance has been performed.

I believe that an analogous, perhaps less elaborate, system should be required in the rail industry. If such a system were in place, it would be a relatively simple matter to fix responsibility for failure of safety-critical equipment. In addition, such a system should help to prevent the intentional disablement of safety devices such as warning whistles and speed controls. Multiple certification by qualified personnel would also promote full compliance with the required predeparture tests and inspections.

Fifth, I am convinced that a Federal license should be required for locomotive engineers. Today, as you know, no license of

any kind is required. In my judgment, no one should be permitted to get behind the throttle of an engine pulling hundreds of passengers or tons of cargo without a license to prove he or she possesses the requisite skills and qualifications. Whether such a licensure program can be established without legislation is debatable. But I believe it is well within your authority to establish minimum standards for the training and qualification of engineers (and for that matter, other operating employees as well). I urge you to initiate a rulemaking to set such standards for engineers as a possible first step in creating a system of Federal licensure.

Sixth, the Conrail locomotive involved in the Colonial crash lacked an operable train-to-train and train-to-station radio. From what is now known about the timing of the accident, it seems doubtful that the Conrail crew could or would have been able to alert either the Colonial or the signal tower controlling that block in time. However, radio capability could make the critical difference in slightly altered circumstances. The NTSB recommendations issued after the accident include operable train-to-train and train-to-station radios. The FRA, I understand, began hearings on radio-communication problems January 28th. I urge you to move as quickly as possible to develop a rule addressing the problems in this area, including a requirement for operable radios with train-to-train and train-to-station capability.

Seventh, the Subcommittee has been told that employees who report violations of safety rules and requirements to FRA inspectors have been subject to later harrassment and reprisal by the carrier involved. The Department should immediately institute a process for affording "whistle blower" protection to such individuals.

Eighth, the AMTRAK engine involved in the collision had no event recorder. I believe all locomotives should be required to carry such instruments and urge you to promulgate a rule incorporating this requirement without delay.

Finally, the effectiveness of FRA's current approach to enforcement has also been seriously questioned. I am concerned that only a small proportion of recorded safety defects are reported as violations. Moreover, FRA's apparent willingness to settle almost all the violations that are reported out of Court for substantially less than the penalty originally assessed tends to undermine the deterrent effect of existing sanctions. It could also damage the morale of the inspector force. I request that your office conduct a review of FRA enforcement policy and inform me, if you could, within 60 days, of the improvements you intend to implement. I will be especially interested in the criteria you might propose for deciding what classes of defects should be reported as violations and in any changes that may be necessary to increase the percentage of penalty assessments actually collected.

I look forward to working with you on these and other initiatives to improve safety in all modes of transportation.

Sincerely yours,

FRANK R. LAUTENBERG,
Chairman, Senate Appropriations Subcommittee on Transportation and Related Agencies.

Mr. EXON. Mr. President, as far as I know, we have completed all of the amendments that we were asked to consider on this bill.

I just want to thank the staff of the Commerce Committee, and the staff of our subcommittee, in particular, for their excellent job on a very detailed piece of legislation.

I wish to thank once again my ranking member, who has been very, very helpful and understanding all of the way through. This was not an easy piece of legislation, but it was a piece of legislation with a lot of hard work, a lot of lengthy hearings, and a lot of common understanding that we were able to work out in a fashion that I think that is highly acceptable and possibly, very probably, will be the model eventually that will come out of the House and Senate conference.

Mr. KASTEN. Mr. President, I know of no further amendments. We are prepared to go to third reading.

Before we do so, I would like to thank and also commend the chairman of the subcommittee for his work on the Railroad Safety Act of 1987. I think we have demonstrated an ability to work out some tough problems. We have a strong, clean bill, and we also have strong bipartisan support to what I think is truly an important and monumental effort.

We are prepared to go to third reading.

The PRESIDING OFFICER. Is there further debate on the bill?

Mr. EXON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. EXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TECHNICAL CORRECTION TO AMENDMENT NO. 1132

Mr. EXON. Mr. President, just as we were going to third reading, it was called to my attention a last-minute correction on line 6 of an amendment to S. 1539, that in hastily drafting that the word "trains" was struck and the word "while" was left in. The correct interpretation is to strike the word "while" and insert the word "trains." That is a technical question and I ask that the staff be authorized to make that correction as I have just indicated.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered and amendment No. 1132 will be so corrected.

Is there further debate on the bill?

Mr. EXON. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays have been requested. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Are there further amendments to the bill? If not, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and was read a third time.

The PRESIDING OFFICER. The bill having been read a third time, the question is, Shall it pass?

The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Georgia [Mr. FOWLER], the Senator from Tennessee [Mr. GORE], the Senator from Hawaii [Mr. MATSUNAGA], the Senator from Rhode Island [Mr. PELL], and the Senator from Illinois [Mr. SIMON] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Missouri [Mr. BOND] and the Senator from Rhode Island [Mr. CHAFEE] are necessarily absent.

The PRESIDING OFFICER (Mr. CONRAD). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 93, nays 0, as follows:

[Rollcall Vote No. 370 Leg.]

YEAS—93

Adams	Glenn	Moynihan
Armstrong	Graham	Murkowski
Baucus	Gramm	Nickles
Bentsen	Grassley	Nunn
Biden	Harkin	Packwood
Bingaman	Hatch	Pressler
Boren	Hatfield	Proxmire
Boschwitz	Hecht	Pryor
Bradley	Heflin	Quayle
Breaux	Heinz	Reid
Bumpers	Helms	Riegle
Burdick	Hollings	Rockefeller
Byrd	Humphrey	Roth
Chiles	Inouye	Rudman
Cochran	Johnston	Sanford
Cohen	Karnes	Sarbanes
Conrad	Kassebaum	Sasser
Cranston	Kasten	Shelby
D'Amato	Kennedy	Simpson
Danforth	Kerry	Specter
Daschle	Lautenberg	Stafford
DeConcini	Leahy	Stennis
Dixon	Levin	Stevens
Dodd	Lugar	Symms
Dole	McCain	Thurmond
Domenici	McClure	Trible
Durenberger	McConnell	Wallop
Evans	Melcher	Warner
Exon	Metzenbaum	Weicker
Ford	Mikulski	Wilson
Garn	Mitchell	Wirth

NOT VOTING—7

Bond	Gore	Simon
Chafee	Matsunaga	
Fowler	Pell	

So the bill (S. 1539), as amended, was passed, as follows:

S. 1539

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Railroad Safety Act of 1987".

AUTHORIZATION FOR APPROPRIATIONS

SEC. 2. Section 214 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 444) is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting immediately after subsection (c) the following:

"(d) There are authorized to be appropriated to carry out the provisions of this Act not to exceed $40,649,000 for the fiscal year

ending September 30, 1988, and not to exceed $41,868,470 for the fiscal year ending September 30, 1989.".

INCREASED PENALTIES; LIABILITY OF INDIVIDUALS

SEC. 3. (a) Section 209(a) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 438(a)) is amended by striking "railroad" and inserting in lieu thereof the following: "person (including a railroad or an individual who performs service covered under the Act of March 4, 1907, commonly referred to as the Hours of Service Act (45 U.S.C. 61 et seq.) as in effect on the date of enactment of the Railroad Safety Act of 1987, or who performs other safety-sensitive functions for a railroad, as those functions are determined by the Secretary)".

(b) Section 209(b) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 438(b)) is amended by striking all after "thereof" and inserting in lieu thereof the following: "in such amount, not less than $250 nor more than $10,000, as the Secretary considers reasonable.".

(c)(1) The first sentence of section 209(c) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 438(c)) is amended to read as follows: "Any person violating any rule, regulation, order or standard referred to in subsection (b) of this section may be assessed by the Secretary the civil penalty applicable to the rule, regulation, order or standard violated, except that any penalty may be assessed against an individual only for willful violations.".

(2) The third sentence of section 209(c) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 438(c)) is amended by striking "occurred" and inserting in lieu thereof the following: "occurred, in which the individual resides,".

(3) Section 209(c) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 438(c)) is amended by adding at the end the following: "For purposes of this section, an individual shall be deemed not to have committed a willful violation where such individual has acted pursuant to the direct order of a railroad official or supervisor.".

(d) Section 209 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 438) is amended by adding at the end the following:

"(f) Where, after notice and opportunity for a hearing, violation by an individual of any rule, regulation, order, or standard prescribed by the Secretary under this title indicates that such individual is unfit for performance of any safety-sensitive task, the Secretary may issue an order directing that such individual be prohibited from serving in a safety-sensitive capacity in the rail industry for such period of time as the Secretary considers necessary. This subsection shall not be construed to affect the Secretary's authority under section 203 of this title to take such action on an emergency basis.".

QUALIFICATIONS OF OPERATORS OF TRAINS

SEC. 4. Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431), as amended by this Act, is further amended by adding at the end the following:

"(i)(1) The Secretary shall, within 18 months after the date of enactment of this subsection, issue rules, regulations, standards and orders concerning the minimum qualifications of the operators of trains. In issuing such rules, regulations, standards and orders, the Secretary shall consider the establishment of an engineer licensing program, uniform minimum qualification standards, and a program of review and approval of each railroad's own qualification standards.

"(2) Not later than twelve months after the date of enactment of this subsection, the Secretary shall transmit to the Congress a report on the activities of the Secretary under this subsection, together with an evaluation of the rules, regulations, standards and orders the Secretary anticipates will be issued under this subsection.".

ACCESS TO THE NATIONAL DRIVER REGISTER

SEC. 5. (a) Section 206(b) of the National Driver Register Act of 1982 (23 U.S.C. 401, note) is amended by adding at the end the following:

"(5) Any individual who is employed by a railroad or who seeks employment with a railroad and who performs or would perform services covered by the Hours of Service Act (45 U.S.C. 61 et seq.) or other safety-sensitive functions, as determined by the Secretary, may request the chief driving licensing official of a State to transmit information regarding the individual under subsection (a) of this section to his or her employer, prospective employer, or to the Administrator of the Federal Railroad Administration. The Administrator, employer or prospective employer shall make that information available to the individual, who will be given an opportunity to comment on it in writing. There shall be no access to information in the Register under this paragraph which was entered in the Register more than three years before the date of such request, unless such information relates to revocations or suspensions that are still in effect on the date of the request. Information submitted to the Register by the States under Public Law 86-660 (74 Stat. 526) or under this Act shall be subject to access for the purpose of this paragraph during the transition to the Register established under section 203(a) of this Act.".

(b) Paragraphs (1) and (2) of subsection (b) of section 206 of the National Driver Register Act of 1982 (23 U.S.C. 401, note) are each amended by adding at the end the following: "Information submitted to the Register by States under Public Law 86-660 (74 Stat. 526) or under this Act shall be subject to access for the purpose of this paragraph during the transition to the Register established under section 203(a) of this Act.".

PROTECTION OF EMPLOYEES AGAINST DISCRIMINATION

SEC. 6. Section 212(c)(2) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 441(c)(2)) is amended to read as follows:

"(2) In any proceeding with respect to which a dispute, grievance or claim is brought for resolution before the Adjustment Board (or any division or delegate thereof) or any other Board of Adjustment created under section 3 of the Railway Labor Act (45 U.S.C. 153), such dispute, grievance or claim shall be expedited by any such Board and be resolved within 180 days after its filing. If the violation of subsection (a) or (b) is a form of discrimination other than discharge, suspension, or any other discrimination with respect to pay, and no other remedy is available under this subsection, the Adjustment Board (or any division or delegate thereof) or any other Board of Adjustment created under section 3 of the Railway Labor Act, may award the aggrieved employee reasonable damages, including punitive damages, not to exceed $10,000.".

NORTHEAST CORRIDOR IMPROVEMENT PROJECT

SEC. 7. Section 704(a)(1) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 854(a)(1)) is amended by adding at the end the following: "improvements to the communication and signal systems at locations between Wilmington, Delaware, and Boston, Massachusetts, on the Northeast Corridor main line and between Philadelphia, Pennsylvania, and Harrisburg, Pennsylvania, on the Harrisburg Line; improvement to the electric traction systems between Wilmington, Delaware, and Newark, New Jersey; installation of baggage rack restraints, seat back guards and seat lock devices on three hundred forty-eight passenger cars operating within the Northeast Corridor; installation of forty-four event recorders and ten electronic warning devices on locomotives operating within the Northeast Corridor; and acquisition of cab signal test boxes and installation of nine wayside loop code transmitters for use on the Northeast Corridor;".

JURISDICTION OVER HIGH SPEED RAIL SYSTEMS

SEC. 8. (a) Section 202(e) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431(e)) is amended to read as follows:

"(e) The term railroad as used in this title includes all forms of non-highway ground transportation that run on rails or electromagnetic guideways, except for rapid transit operations within an urban area that are not connected to the general railroad system of transportation. The term railroad specifically refers, but is not limited, to (1) commuter or other short-haul rail passenger service in a metropolitan or suburban area, including any commuter rail service which was operated by the Consolidated Rail Corporation as of January 1, 1979, and (2) high speed ground transportation systems that connect metropolitan areas, without regard to whether they use new technologies not associated with traditional railroads.".

(b) Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431) is amended by striking subsections (i), (j), and (k).

ENFORCEMENT OF SUBPOENAS AND ORDERS

SEC. 9. Section 208(a) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 437(a)) is amended by striking all from the semicolon and inserting in lieu thereof the following: ". In case of contumacy or refusal to obey a subpoena, order, or directive of the Secretary issued under this subsection or under section 203 of this title by any individual, partnership, or corporation that resides, is found, or conducts business within the jurisdiction of any district court of the United States, such district court shall have jurisdiction, upon petition by the Attorney General, to issue to such individual, partnership, or corporation an order requiring immediate compliance with the Secretary's subpoena, order, or directive. Failure to obey such court order may be punished by the court as a contempt of court.".

STUDY

SEC. 10. Not later than six months after the date of enactment of this Act, the Secretary of Transportation shall report to the Congress on the need and feasibility of imposing user fees as a source of funding the costs of administering the Federal Railroad Safety Act of 1970 (45 U.S.C. 431 et seq.) and all other Federal laws relating to railroad safety and railroad noise control. In preparing such report, the Secretary shall specifically consider various methodologies and means for establishing a schedule of fees to be assessed to railroads or others in-

volved in providing rail transportation; procedures for the collection of such fees; the projected revenues that could be generated by user fees; a projected schedule for the implementation of such fees; and the impact of user fees on railroads or others who might be subject to such fees and on the Federal railroad safety and railroad noise control programs.

CONFORMING AMENDMENTS

SEC. 11. Section 202(a) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431(a)) is amended by inserting immediately after the first sentence the following: "This authority specifically includes the authority to regulate all aspects of railroad employees' safety-related behavior, as well as the safety-related behavior of the railroads themselves.".

SEC. 12. The Federal Railroad Safety Act of 1970 is amended by inserting immediately after section 202 the following new section:

"SEC. 202A. (a) Within 180 days after the date of enactment of this section, the Secretary shall issue rules, regulations, standards, and orders requiring that whoever performs the required test of automatic train stop, train control, or cab signal apparatus prior to entering territory where such apparatus will be used shall certify in writing that such test was properly performed, and that such certification shall be kept and maintained in the same manner and place as the daily inspection report for that locomotive.

"(b) Within 30 days of the date of enactment of this section, the Secretary shall issue rules, regulations, standards, and orders requiring the use of automatic train control on all trains operating in the Northeast Corridor by not later than December 31, 1990. The Secretary shall submit a report to the Congress by January 1, 1989, on the progress of this effort, and detail in that report any proposals to modify the requirements in this subsection, and the reasons for such modification.

"(c) The Secretary shall require the installation and use of event recorders on freight trains no later than one year after the date of enactment of this section.

"(d)(1) Within 30 days after the date of enactment of this section, the Secretary shall establish a Northeast Corridor Safety Committee and appoint members to the Committee consisting or representatives of—

"(A) the Secretary;

"(B) the National Railroad Passenger Corporation;

"(C) freight carriers;

"(D) commuter agencies;

"(E) railroad passengers; and

"(F) any other persons or organizations interested in rail safety.

"(2) The Secretary shall consult with the Northeast Corridor Safety Committee on safety improvements in the Northeast Corridor.

"(3) Within 90 days following the date of enactment of this section, the Secretary shall, in accordance with section 333 of title 49, United States Code, convene a meeting of Northeast Corridor rail carriers for the purpose of reducing through freight traffic on Northeast Corridor passenger lines.

"(4) Within one year after the date of enactment of this section, and annually thereafter, the Secretary shall submit a report, including any recommendations for legislation, to the Congress on the status of efforts to improve safety in the Northeast Corridor pursuant to the provisions of this section.".

MISCELLANEOUS

SEC. 13. Section 211(c) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 440(c)) is repealed.

AMENDMENTS TO SAFETY APPLIANCE ACTS

SEC. 14. The Act of March 2, 1893 (45 U.S.C. 1-7), the Act of March 2, 1903 (45 U.S.C. 8-10), and the Act of April 14, 1910 (45 U.S.C. 11-16), commonly referred to as the Safety Appliance Acts are amended as follows:

(a) The Act of March 2, 1893, is amended—

(1) in the first section (45 U.S.C. 1)—

(A) by striking "common carrier engaged in interstate commerce by";

(B) by striking "in moving interstate traffic"; and

(C) by striking "in such traffic";

(2) in section 2 (45 U.S.C. 2)—

(A) by striking "common carrier" and inserting in lieu thereof "railroad"; and

(B) by striking "used in moving interstate traffic";

(3) in section 3 (45 U.S.C. 3), by striking "person, firm, company, or coporation engaged in interstate commerce by";

(4) in section 4 (45 U.S.C. 4), by striking "in interstate commerce";

(5) in section 5 (45 U.S.C. 5), by striking "in interstate traffic";

(6) in section 6 (45 U.S.C. 6)—

(A) by striking all before the first semicolon and inserting in lieu thereof the following: "Any such person (including a railroad or any individual who performs service covered under the Act of March 4, 1907, commonly referred to as the Hours of Service Act (45 U.S.C. 61 et seq.), as in effect on the date of enactment of the Railroad Safety Act of 1987, or who performs other safety-sensitive functions for a railroad, as those functions are determined by the Secretary of Transportation) using any locomotive engine, running any train, or hauling or permitting to be hauled or used on its line any car in violation of any of the provisions of this Act, shall be liable to a penalty in such amount, not less than $250 nor more than $10,000 per violation (with each day of a violation constituting a separate violation), as the Secretary of Transportation deems reasonable, except that a penalty may be assessed against an individual only for a willful violation, such penalty to be assessed by the Secretary of Transportation and, where compromise is not reached by the Secretary, recovered in a suit or suits to be brought by the United States Attorney for the judicial district in which the violation occurred, in which the individual defendant resides, or in which the defendant has its principal executive office"; and

(B) by adding at the end the following: "For purposes of this section, an individual shall be deemed not to have committed a willful violation where such individual has acted pursuant to the direct order of a railroad official or supervisor."; and

(7) in section 8 (45 U.S.C. 7)—

(A) by striking "common carrier" and inserting in lieu thereof "railroad"; and

(B) by striking "such carrier" and inserting in lieu thereof "such railroad".

(b) The Act of March 2, 1903, is amended—

(1) in the first section (45 U.S.C. 8), by striking "common carriers by" and by striking "engaged in interstate commerce" the second time it appears;

(2) in section 2 (45 U.S.C. 9)—

(A) by striking "common carriers engaged in interstate commerce by railroad" and inserting in lieu thereof "railroads"; and

(B) by striking "engaged in interstate commerce"; and

(3) in section 3 (45 U.S.C. 10), by striking "common carrier" and inserting in lieu thereof "railroad".

(c) The Act of April 14, 1910, is amended—

(1) in section 2 (45 U.S.C. 11), by striking "common carrier" and inserting in lieu thereof "railroad";

(2) in section 3 (45 U.S.C. 12)—

(A) by striking "in interstate or foreign traffic" wherever it appears;

(B) by striking "common carriers" and inserting in lieu thereof "railroads"; and

(C) by striking "common carrier" and inserting in lieu thereof "railroad";

(3) in section 4 (45 U.S.C. 13)—

(A) by striking "common carrier" and inserting in lieu thereof "person (including a railroad or any individual who performs service covered under the Act of March 4, 1907, commonly referred to as the Hours of Service Act (45 U.S.C. 61 et seq.), as in effect on the date of enactment of the Railroad Safety Act of 1987, or who performs other safety-sensitive functions for a railroad, as those functions are determined by the Secretary of Transportation)";

(B) by striking "carrier" wherever it appears and inserting in lieu thereof "person";

(C) by striking "of not less than $250 and not more than $2,500 for each and every such violation," and inserting in lieu thereof the following: "in such amount, not less than $250 nor more than $10,000 per violation (with each day of a violation constituting a separate violation), as the Secretary of Transportation deems reasonable, except that a penalty may be assessed against an individual only for a willful violation, such penalty";

(D) by striking "and recovered" and inserting in lieu thereof the following: "and, where compromise is not reached by the Secretary, recovered"; and

(E) by adding at the end the following: "For purposes of this section, an individual shall be deemed not to have committed a willful violation where such individual has acted pursuant to the direct order of a railroad official or supervisor.";

(4) in section 5 (45 U.S.C. 14), by striking "common carrier" and inserting in lieu thereof "railroad"; and

(5) by amending the first section (45 U.S.C. 16) to read as follows: "That used in this Act, the Act of March 2, 1893 (45 U.S.C. 1-7), and the Act of March 2, 1903 (45 U.S.C. 8-10), commonly known as the Safety Appliance Acts, the term 'railroad' shall have the same meaning as when used in the Federal Railroad Safety Act of 1970 (45 U.S.C. 431 et seq.).".

AMENDMENTS TO LOCOMOTIVE INSPECTION ACT

SEC. 15. The Act entitled "An Act to promote the safety of employees and travelers upon railroads by compelling common carriers engaged in interstate commerce to equip their locomotives with safe and suitable boilers and appurtenances thereto", approved February 17, 1911 (45 U.S.C. 22 et seq.), is amended—

(1) by amending the first section (45 U.S.C. 22) to read as follows: "That the term 'railroad', when used in this Act, shall have the same meaning as when used in the Federal Railroad Safety Act of 1970 (45 U.S.C. 431 et seq.).";

(2) in section 2 (45 U.S.C. 23), by striking "carrier" wherever it appears and inserting in lieu thereof "railroad";

(3) in section 5 (45 U.S.C. 28)—

(A) by striking "common carrier" and inserting in lieu thereof "railroad"; and

(B) by striking "carrier" wherever it appears and inserting in lieu thereof "railroad";

(4) in section 6 (45 U.S.C. 29), by striking "carrier" and "carriers" wherever they appear and inserting in lieu thereof "railroad" and "railroads", respectively;

(5) in section 8 (45 U.S.C. 32), by striking "carrier" wherever it appears and inserting in lieu thereof "railroad"; and

(6) in section 9 (45 U.S.C. 34)—

(A) by striking all before the first semicolon and inserting in lieu thereof the following: "Any person (including a railroad or any individual who performs service covered under the Act of March 4, 1907, commonly referred to as the Hours of Service Act (45 U.S.C. 61 et seq.), as in effect on the date of enactment of the Railroad Safety Act of 1987, or who performs other safety-sensitive functions for a railroad, as those functions are determined by the Secretary of Transportation) violating this Act, or any rule or regulation made under its provisions or any lawful order of any inspector shall be liable to a penalty in such amount, not less than $250 nor more than $10,000 per violation (with each day of a violation constituting a separate violation), as the Secretary of Transporation deems reasonable, except that a penalty may be assessed against an individual only for a willful violation, such penalty to be assessed by the Secretary of Transportation and, where compromise is not reached by the Secretary, recovered in a suit or suits to be brought by the United States Attorney for the judicial district in which the violation occurred, in which the individual defendant resides, or in which the defendant has its principal executive office"; and

(B) by adding at the end the following: "For purposes of this section, an individual shall be deemed not to have committed a willful violation where such individual has acted pursuant to the direct order of a railroad official or supervisor.".

AMENDMENTS TO ACCIDENT REPORTS ACT

SEC. 16. The Act entitled "An Act requiring common carriers engaged in interstate and foreign commerce to make full reports of all accidents to the Interstate Commerce Commission, and authorizing investigations thereof by said commission", approved May 6, 1910 (45 U.S.C. 38 et seq.) is amended—

(1) in the first section (45 U.S.C. 38)—

(A) by striking "common carrier engaged in interstate or foreign commerce by";

(B) by striking "carriers" and by inserting in lieu thereof "railroads"; and

(C) by adding at the end the following: "The term 'railroad', when used in this Act shall have the same meaning as when used in the Federal Railroad Safety Act of 1970 (45 U.S.C. 431 et seq.).";

(2) in section 2 (45 U.S.C. 39)—

(A) by striking from "common carrier" and inserting in lieu thereof "railroad"; and

(B) by striking the last sentence;

(3) in section 3 (45 U.S.C. 40)—

(A) by striking "common carrier engaged in interstate or foreign commerce by"; and

(B) by striking "carriers" and inserting in lieu thereof "railroads";

(4) by amending section 7 (45 U.S.C. 43) to read as follows:

"SEC. 7. Any person (including a railroad or any individual who performs service covered under the Act of March 4, 1907, commonly referred to as the Hours of Service Act (45 U.S.C. 61 et seq.), as in effect on the date of enactment of the Railroad Safety Act of 1987, or who performs other safety-sensitive functions for a railroad, as those functions are determined by the Secretary of Transportation) who violates this act or any rule, regulation, order, or standard issued under this Act or the Federal Railroad Safety Act of 1970 pertaining to accident reporting or investigations shall be liable for a penalty in such amount, not less than $250 nor more than $10,000 per violation (woth each day of a violation constituting a separate violation), as the Secretary of Transportation deems reasonable, except that a penalty may be assessed against an individual only for a willful violation, such penalty to be assessed by the Secretary of Transportation and, where compromise is not reached by the Secretary, recovered in a suit or suits to be brought by the United States Attorney for the judicial district in which the violation occurred, in which the individual defendant resides, or in which the defendant has its principal executive office. For purposes of this section, an individual shall be deemed not to have committed a willful violation where such individual has acted pursuant to the direct order of a railroad official or supervisor.".

AMENDMENTS TO HOURS OF SERVICE ACT

SEC. 17. The Act of March 4, 1907, commonly referred to as the Hours of Service Act (45 U.S.C. 61 et seq.), is amended—

(1) in the first section (45 U.S.C. 61)—

(A) in subsection (a), by striking "common carrier engaged in interstate or foreign commerce by";

(B) in subsection (b)(1), by striking all after "term" and inserting in lieu thereof " 'railroad' shall have the same meaning as when used in the Federal Railroad Safety Act of 1970 (45 U.S.C. 431 et seq.)."; and

(C) In subsection (b)(4), by striking "carrier" and inserting in lieu thereof "railroad";

(2) in section 2 (45 U.S.C. 62), by striking "common carrier" wherever it appears and inserting in lieu thereof "railroad";

(3) in section 3 (45 U.S.C. 63), by striking "common carrier" and inserting in lieu thereof "railroad";

(4) in section 3A (45 U.S.C. 63a), by striking "common carrier" and "carrier" wherever they appear and inserting in lieu thereof "railroad";

(5) in section 4 (45 U.S.C. 64), by striking "common carrier" and inserting in lieu thereof "railroad";

(6) in section 5 (45 U.S.C. 64a)—

(A) by amending subsection (a)(1) to read as follows:

"(a)(1) Any person (including a railroad or any officer or agent thereof, or any individual who performs service covered by this Act, or who performs other safety-sensitive functions for a railroad, as those functions are determined by the Secretary of Transportation) that requires or permits any employee to go, be, or remain on duty in violation of section 2, section 3, or section 3A of this Act, or that violates any other provision of this Act, shall be liable for a penalty of up to $1,000 per violation, as the Secretary of Transportation deems reasonable, except that a penalty may be assessed against an individual only for a willful violation, such penalty to be assessed by the Secretary of Transportation and, where compromise is not reached by the Secretary, recovered in a suit or suits to be brought by the United States Attorney for the judicial district in which the violation occurred, in which the individual defendant resides, or in which the defendant has its principal executive office. It shall be the duty of the United States Attorney to bring such an action upon satisfactory information being lodged with him. In the case of a violation of section 2(a)(3) or (a)(4) of this Act, each day a facility is in noncompliance shall constitute a separate offense. For purposes of this section, an individual shall be deemed not to have committed a willful violation where such individual has acted pursuant to the direct order of a railroad official or supervisor.";

(B) in subsection (a)(2), by striking "the common carrier" and inserting in lieu thereof "such person";

(C) in subsection (c), by striking "common carrier" and inserting in lieu thereof "railroad"; and

(D) in subsection (d), by striking "carrier" and inserting in lieu thereof "railroad".

AMENDMENTS TO SIGNAL INSPECTION ACT

SEC. 18. Section 26 of the Act of February 4, 1887 (49 App. U.S.C. 26) is amended—

(1) by amending subsection (a) to read as follows:

"(a) The term 'railroad' as used in this section shall have the same meaning as when used in the Federal Railroad Safety Act of 1970 (45 U.S.C. 431 et seq.).";

(2) in subsection (b), by striking "carrier" wherever it appears and inserting in lieu thereof "railroad", and by striking "carriers" and inserting in lieu thereof "railroads";

(3) in subsection (c)—

(A) by striking "carrier by"; and

(B) by striking "carrier" wherever it appears and inserting in lieu thereof "railroad";

(4) in subsection (d), by striking "carrier" wherever it appears and inserting in lieu thereof "railroad";

(5) in subsection (e), by striking "carrier" and inserting in lieu thereof "railroad";

(6) in subsection (f), by striking "carrier" and inserting in lieu thereof "railroad";

(7) in subsection (h)—

(A) by amending the first sentence to read as follows: "Any person (including a railroad or any individual who performs service covered under the Act of March 4, 1907, commonly referred to as the Hours of Service Act (45 U.S.C. 61 et seq.), as in effect on the date of enactment of the Railroad Safety Act of 1970, or who performs other safety-sensitive functions for a railroad, as those functions are determined by the Secretary of Transportation) which violates any provision of this section, or which fails to comply with any of the orders, rules, regulations, standards, or instructions made, prescribed, or approved hereunder shall be liable to a penalty in such amount, not less than $250 nor more than $10,000 per violation (with each day of a violation constituting a separate violation), as the Secretary of Transportation deems reasonable, except that a penalty may be assessed against an individual only for a willful violation, such penalty to be assessed by the Secretary of Transportation and, where compromise is not reached by the Secretary, recovered in a suit or suits to be brought by the United States Attorney for the judicial district in which the violation occurred, in which the individual defendant resides, or in which the defendant has its principal executive office."; and

(B) by adding at the end the following: "For purposes of this section, an individual shall be deemed not to have committed a willful violation where such individual has acted pursuant to the direct order of a railroad official or supervisor.".

(8) by striking "Commission" wherever it appears and inserting in lieu thereof "Secretary of Tranportation".

MAXIMUM TRAIN SPEEDS

SEC. 19. The Secretary of Transportation, in consultation with the Federal Railroad Administration, shall, within six months of the enactment of this legislation, institute a rulemaking, as may be necessary, provide for the safety of highway travelers and pedestrians who use railroad grade crossings points where trains operate through any densely populated college campus. As determined by the Secretary to be necessary such rulemaking shall require, maximum speed limits for trains, guardrails and warning lights at railgrade crossings located on any such campus, and intensified presentation of Operational Lifesavers educational programs on such campuses to familiarize students, and other persons with the inherent dangers of such crossings.

RAIL PASSENGER SERVICE ACT AMENDMENTS

SEC. 20. (a) Section 301 of the Rail Passenger Service Act (45 U.S.C. 541) is amended by striking "agency" and inserting in lieu thereof "agency, instrumentality,".

(b) Section 303(a)(1)(E) of the Rail Passenger Service Act (45 U.S.C. 543(a)(1)(E)) is amended to read as follows:

"(E) Two members selected by the preferred stockholders of the Corporation, who each shall serve for a term of one year or until their successors have been appointed.".

(c) Section 303(d) of the Rail Passenger Service Act (45 U.S.C. 543(d)) is amended by striking the third sentence and inserting in lieu thereof the following: "The president and other officers of the Corporation shall receive compensation at a level no higher than the general level of compensation paid officers of railroads in positions of comparable responsibility.".

(d) Section 308(a) of the Rail Passenger Service Act (45 U.S.C. 548(a)) is amended by inserting immediately after "also" in the last sentence the following: "provide all relevant information concerning any decision to pay to any officer of the Corporation compensation at a rate in excess of that prescribed for level I of the Executive Schedule under section 5312 of title 5, United States Code, and".

(e) Section 602(i) of the Rail Passenger Service Act (45 U.S.C. 602(i)) is repealed.

(f) Subsection (b) of the first section of the Act entitled "An Act to amend the Rail Passenger Service Act of 1970 in order to provide financial assistance to the National Railroad Passenger Corporation, and for other purposes", approved June 22, 1972 (Public Law 92-316; 86 Stat. 227), is repealed.

PROTECTION FOR CERTAIN WORKERS

SEC. 21. (a) No employee shall be disciplined or sanctioned as a result of information discovered through access authorized by this Act to the National Driver Register, where such employee has successfully completed a rehabilitation program subsequent to the cancellation, revocation, or suspension of the motor vehicle operator's license of such person.

(b) Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431), as amended by this Act, is further amended by adding at the end the following:

"(j) The Secretary shall, within one year after the date of enactment of the Railroad Safety Act of 1987, issue such rules, regulations, orders, and standards as may be necessary for the protection of maintenance-of-way employees, including standards for bridge safety equipment, such as nets, walkways, handrails, and safety lines, and requirements relating to instances when boats shall be used.".

(c) Section 2 of the Act of March 4, 1907, commonly referred to as the Hours of Service Act (45 U.S.C. 62), is amended by adding at the end the following:

"(e) As used in section 2(a)(3) of this Act, the term 'employee' shall be deemed to include an individual employed for the purpose of maintaining the right-of-way of any railroad.".

(d) The Secretary of Transportation shall, within one year after the date of enactment of this Act, amend part 218 of title 49, Code of Federal Regulations, to apply blue signal protection to on-track vehicles where rest is provided.

Mr. KASTEN. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. KERRY. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senate will be in order.

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that there be a brief period for morning business, that Senators may speak therein for not to exceed 5 minutes each, and that that period not extend beyond the hour of 6:15 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

WEINBERGER DEPARTS

Mr. DOLE. Mr. President, after 7 years overseeing one of our Nation's most important agencies, Cap Weinberger stepped down today as Secretary of Defense.

We will miss him and his service.

In his long and distinguished public career, Secretary Weinberger has served this Nation in numerous ways—as a member of Gen. Douglas MacArthur's intelligence staff during World War II; as director of finance for the State of California; as Chairman of the Federal Trade Commission; as Deputy Director and later Director of the Office of Management and Budget; then as Secretary of HHS: and finally, Secretary of Defense.

Throughout his decades of public service—and throughout his successful private business career, as well—Cap has been renowned for his constant adherence to principle.

I can think of no better way to prove that than to point out that when he served as OMB Director, Cap gained a reputation for extraordinary cost cutting. That was not a popular thing to do in this town back then—nor may I add that it's any more popular today—but Cap took this unpopular but necessary action based on his principles.

Conversely, as Secretary of Defense, he has called for a level of defense spending that in recent years has not been popular. But, again, he did not bend with the changing political winds. He stoods firm—based on the principle that his responsibility was to defend the country.

His clear vision of defense led him inevitably to advocate that the United States develop the capability to defend herself from enemy ballistic missiles. He championed the cause for a strategic defense not just on strategic grounds, but on the higher moral necessity for a government to protect its citizens.

Further, he directed the urgent drive to rebuild our Nation's neglected and demoralized Armed Forces. He accomplished these goals and much more.

In doing so, he has been able to provide President Reagan with insightful counsel on matters of national security. For instance, it was his principle and clear world view that led him to oppose the ill-fated sales of arms to Iran.

That kind of counsel will be missed not only by the President, but by this body and the Nation at large. We'll miss his exhortations for appropriate caution when dealing with the Soviet Union as we are today.

Indeed, as the Senate focuses on the need for verification and enforceability of the proposed INF Treaty, we'll do so in large part because Cap Weinberger helped keep those issues before us.

We'll miss Cap and we will miss his devotion to timeless American principles, his willingness to work long hours, and his deep commitment to his defense responsibilities.

History will record that Caspar Weinberger was one of the finest public servants this country has ever known.

BICENTENNIAL MINUTE

NOVEMBER 5, 1975: SENATE OPENS ALL COMMITTEE MEETINGS

Mr. DOLE. Mr. President, a dozen years ago today, on November 5, 1975, the U.S. Senate voted 86 to 0 to open its committee meetings to the public and the press. This move was a part of the general "Sunshine" movement that followed in the wake of Watergate, and concern over excessive secrecy in Government.

The Senate began by rejecting—by a margin of 77 to 16—a Rules Committee proposal that would have allowed each committee to set its own rules for opening hearings, and then adapted a more sweeping proposal, offered by Senator ROBERT BYRD, to open all committee meetings, including markup sessions, unless they dealt with issues of national security or personal privacy.

As Senator MARK HATFIELD said during the debate over the measure: "For too long the major decisions affecting the lives of millions of Americans have been made behind closed doors. The pictorial image of smoke-filled rooms, unfortunately, has not only been applied to political image of smoke-filled rooms, unfortunately, has not only been applied to political conventions, but to the Congress as well." Senator WILLIAM ROTH added: "I believe that when we rid the Government of unnecessary secrecy, there will be greater respect for the times when confidentiality is necessary."

Senator Edmund Muskie pointed out that the Budget Committee had already begun holding its markup sessions in public, and while he had first had some misgivings, he found that it was quite possible to reach accommodations and debate difficult issues in open sessions. "Open meetings have encouraged responsible decisionmaking," he reported. "They have improved our access to public opinion, and they have broadened both the debate and public involvement where our tax dollars will be spent."

Today, the Senate continues to work quite well under the open door rule that we adopted 12 years ago.

SOVIET JEWRY REUNIFICATION

Mr. GRAHAM. Mr. President; Svetlana Braun lives today in the United States with her husband. She is one of the lucky ones—Soviet Jews who were given permission to join their families living outside Russia. We rejoice in the good fortune of Keith and Svetlana Braun as their long overdue reunification takes place. But the end of the Brauns' ordeal serves as a stark reminder that others are not so fortunate.

Dr. Galina Vileshina, a Russian imigrant who is now a U.S. citizen with a medical practice in Boca Raton, FL, is currently visiting her husband for 3 weeks in Lithuania. The couple has been separated since 1978. Dr. Vileshina's husband, Pyatras Pakenas, has been forbidden to practice law since he first applied for an exit visa in 1978. Every request he has submitted to emigrate has been denied. this is a shameful violation of every humane principle and of human rights, made more grievous by Mr. Pakenas' serious medical problems. The stress and sorrow of separation from his family is compounded by his precarious health and by the unavailability of adequate medical treatment for his condition in the Soviet Union.

There is no cogent reason to make virtual prisoners of people who have legal permission to join their families in other countries. Citizens of the Union of Soviet Socialist Republics have the same love of family and the same right to be with their families as anyone else, anywhere else. We continue to insist that trust in international relations cannot be developed with governments which do not treat their citizens honorably. Respect for marriage and family and individual choice is so fundamental a social value that we cannot conceive of a world in which such respect does not exist. We call upon the Soviet Union to allow the reunification of divided families without further delay. A political policy of broken families is a tactic unworthy of a world power and unacceptable to the world community.

A CALL TO THE SOVIET UNION TO REUNITE DIVIDED FAMILIES

Mr. DIXON. Mr. President, in my home State of Illinois there is a young woman, Elizabeth Zhitkov, who since her marriage last March has been separated from her husband, Andrei. Elizabeth has been working with my friend and colleague, Senator PAUL SIMON, in an effort to expedite her husbands immigration to the United States. Their experience is filled with frustration, and clearly shows the difficulties imposed by the Soviet Government on their citizens who marry foreigners.

While Elizabeth and Andrei have in good faith done everything to make his emigration possible, the Soviet Government consistently created obstacles. The Zhitkovs have been unable to obtain the appropriate papers and currently face a situation which is needless and frightening.

In the fall of 1986, Elizabeth Crewe, from Palos Hills, IL, traveled to the Soviet Union to participate in a 4-month study program in conjunction with the Council on International Educational Exchange at Leningrad State University. There she met and fell in love with Andrei Zhitkov. They decided to marry.

In December 1986, Andrei and Elizabeth applied for a marriage application. They were given a 3-month waiting period. In January 1987, Elizabeth's student visa expired and she was forced to return to the United States.

On March 2, 1987, after a 3-month separation, Elizabeth returned to Leningrad and married Andrei without difficulty. Unable to remain in Leningrad, Elizabeth left the Soviet Union 2 days later and has been separated from her husband, Andrei, for the past 8 months.

In July 1987, having secured an indefinite postponement of Andrei's induction into the military, the Office of Visas and Emigration Registration [OVIR], accepted Andrei's application for an exit visa. According to Soviet law, OVIR must act within a month to grant or reject his request. Instead, Andrei's application remains on indefinite hold and due to actions taken by the OVIR, Andrei's legal right to stay in Leningard is now uncertain.

Andrei's parents divorced over 20 years ago, but since his estranged father refuses to sign the necessary documents for either Elizabeth to live in Leningrad or for Andrei to emigrate, his papers are "incomplete". On the advice of official at the OVIR, Aleksandr Alekseevich Chuliiin, Andrei signed out of his biological father's apartment in Leningrad. Mr. Chuliiin stated that Andrei's father's claims against his son were based on the fact that Andrei occupied this apartment and that as soon as Andrei signed out, they could grant him an exit visa.

Andrei, in good faith, followed this advice. He has now lost his job and has no legal right to remain in Leningrad. It is only a matter of time before Andrei is forced to return to the closed city of Pechora, where Elizabeth can never visit.

The situation of Andrei and Elizabeth Zhitkov's is not new. What emerges is a clear picture of a young couple whose hopes of a life together have been blocked by the Soviet Government. The OVIR has broken its word and Elizabeth and Andrei suffer needlessly. For what purpose? The motive is beyond this Senator's comprehension.

Soon President Reagan and General Secretary Gorbachev will meet to discuss relations between our two nations. Now is an opportune time for the Soviet Union to honor the Helsinki accords and actively work to reunite divided families. A important first step would be to grant Andrei Zhitkov's exit visa.

DIVIDED SPOUSES

Mr. MOYNIHAN. Mr. President, I rise today to address a human rights problem of special poignance: divided spouses. The Soviet Government has repeatedly prevented spouses and intended spouses from reuniting when one partner is American and the other a Soviet citizen.

The number of such cases is not large, but their import in human terms is great. In the case of Elizabeth Condon of Massachusetts and her fiance Victor Novikov, an 8-year delay by the Soviet authorities has prevented the couple from realizing their wish to have children.

Antonette Bohonovsky of New York City twice had her marriage to Soviet Evgenie Grigorishin blocked by Soviet authorities. The second time, in May 1986, the Soviets intervened on the day of the marriage and arrested the groom. Soviet agents then harassed Ms. Bohonovsky until they put her on a flight to Paris with no ticket home.

According to a June 26, 1986, cable from the Department of State, "Ms.

Bohonovsky's harassment by Soviet authorities is unfortunately not unique."

The Soviets are bound by the Helsinki accords to "examine favorably and on the basis of humanitarian considerations requests for exit or entry permits from persons who have decided to marry a citizen" from one of our two countries. Their record in this regard, while improving, falls short.

There have been encouraging signs in recent months that the Soviet Union is improving its human rights record. It is not a coincidence that this improvement has been accompanied by closer relations between our two countries.

My colleagues in the Senate and I were heartened Tuesday night when Svetlana and Keith Braun were reunited more than 3 years after their marriage. We hope that the coming months will bring us more stories like the Brauns', and that at this time next year, there will be no more divided spouses.

SOVIET JEWRY REUNIFICATION

Mr. KENNEDY. Mr. President, there are encouraging signs that the Soviets are permitting some families to reunite. I rejoice that Svetlana Braun was able to leave the Soviet Union and be reunited with her husband Keith on Tuesday. But that is only one case.

On October 23, Elizabeth Condon and Victor Novikov would have celebrated their eighth wedding anniversary had Soviet authorities not prevented their marriage in 1979. Since that time, Elizabeth has applied 10 times to visit the Soviet Union and Victor has applied 9 times to visit the United States so they could be married—each request was denied.

Elizabeth is a Russian teacher in Lynn, MA. She has devoted much of her life to improving relations between the United States and the Soviet Union. She has participated in Fulbright and AFS programs in Moscow and has escorted groups of students on tours in the Soviet Union. Elizabeth is an example of one dedicated to finding what is positive about the Soviet Union but has been repaid with what is unacceptable about the Soviet Union.

After meeting in 1967, Elizabeth and Victor saw each other 10 times before 1979. Victor, formerly a research chemist, lost his job in 1982 after applying to emigrate. Their first attempt at marriage was blocked by a slanderous letter reporting that Victor was already married—he was not. Since that time, Soviet officials have come up with one excuse after another to prevent the couple from being married.

As Anthony Lewis wrote more than a year ago:

They are not politically significant people, Miss Condon and Mr. Novikov. They have achieved no fame, carried out no political dissent, challenged no orthodoxy. They just want to get married and live together, but the denial of that simple human right is significant, a damaging and puzzling Soviet policy.

I am elated that the Brauns will finally be able to begin a life together which was for so long denied them—a life which is still denied Elizabeth Condon and Victor Novikov.

DIVIDED SPOUSES: THE BALOVLENKOV CASE

Mr. SARBANES. Mr. President, while overall emigration levels from the Soviet Union have improved somewhat in recent months, almost no progress has been made toward resolving the tragic problem of divided spouses and blocked marriages. There are now approximately 20 Soviet-American couples who are forced to live in separation because the Soviet Government will not grant one of them an exit visa. The case of Yuri and Elena Balovlenkov has been of particular concern to me since Elena is an American citizen and a native of Baltimore.

Mr. and Mrs. Balovlenkov have been forcibly separated for almost 9 years. Yuri, a computer engineer, met Elena, an American nurse, when she was visiting the Soviet Union in 1977, and they were married the following year. Since that time, Yuri has been denied an exit visa on 15 occasions with no reason given for his refusal. Elena has not been allowed to visit him since 1982, and even telephone contact has been severely restricted. Yuri's job was taken away immediately following his first application to emigrate, forcing Elena to work two jobs in the United States in order to support him and their two daughters—the younger of which Yuri has never even seen.

To protest his treatment by the Soviet Government, Mr. Balovlenkov has undertaken two lengthy and debilitating hunger strikes. The first one, in 1982, lasted 79 days, and ended after the Soviets promised him that he would be allowed to leave the country by 1985. When that date passed and Yuri still had not been granted an exit visa, he began a second hunger strike which lasted 100 days. His health still suffers from that experience.

The Balovlenkovs have withstood great hardship and deep personal anguish. They have remained brave and committed to one another throughout their long ordeal, and are doing everything in their power to secure a future together in the United States. I once again call upon the Soviet Union to stop this senseless harassment and allow the Balovlenkov family to be reunited at once.

NEW JERSEY DIVIDED SPOUSE ANDREA WINE

Mr. LAUTENBERG. Mr. President, I am pleased to join in this effort to raise the cases of American citizens that are needlessly separated from their spouses in the Soviet Union. I have been working on behalf of one of my constituents, Andrea Wine, who has been separated from her husband, Victor Faermark, since they married in 1985.

Andrea Wine is a U.S. citizen who grew up in New Jersey. She is now an international management consultant who currently lives and works in England. Her parents live in Cranbury, NJ. Andrea married Victor Faermark in the Soviet Union on November 21, 1985.

Like all of the divided spouse cases, Victor and Andrea's is tragic. Victor is 45 years old and has a doctoral degree in physical chemistry. When he first applied to emigrate from the Soviet Union in 1971 he had an excellent job as a research scientist. But, as soon as he applied to emigrate, he lost his job and was denied permission to emigrate on the grounds of secrecy. Because of his desire to emigrate, Victor has been unable to get a scientific job, and he has been working as an engineer on ventilation projects.

Andrea and Victor have been married for nearly 2 years, but the Soviets keep them needlessly separated. Since they were married, Andrea has been able to see her husband only a handful of times.

Despite the fact that Victor has not had access to any secret information since he was fired from his job in 1971, the Soviets continue to deny him permission to emigrate on the grounds of "possession of state secrets." Andrea has been told countless times that her husband's case is under review.

Reviewing the case of Victor Faermark is not enough. Victor and Andrea should be able to live together in the United States. They should not be used as pawns in the game of international politics. The Soviets should make good on the promises they made when they signed the Helsinki accords and resolve this case.

AN OCEAN APART

Mr. KERRY. Mr. President, the Soviet Union has made progress recently in the area of human rights under Mikhail Gorbachev's policy of glasnost. The numbers of Jews allowed to emigrate has increased, although not to the levels of 1979, and a number of prominent refuseniks have been permitted to leave. We have also seen evidence of a more open Soviet attitude in arms control, in arts and literature, and in other areas.

However, while I am encouraged by this progress, there is still much room

for improvement. I am concerned by the numbers of Jews and others who are still not permitted to leave. And I am concerned by the continuing cases of divided spouses which are still unresolved.

One such case is that of Elizabeth Condon and Victor Novikov. Ms. Condon is a resident of Lynn, MA. She is a teacher of Russian, and has been engaged in efforts to promote greater understanding of Russian language and culture in this country. She also happens to be engaged to a Soviet citizen, Victor Novikov.

Mr. Novikov lives in Moscow, and has been refused permission to leave the U.S.S.R. and come to America to be united with his fiance, Ms. Condon. He has applied for permission to emigrate 10 times, and each time he has been refused. Mr. Novikov is a research chemist, and he held a low-level classification for his work in a "closed institute" from 1976-77. However, he has not engaged in any such work for 10 years, and has not been able to work in his profession at all since 1982.

Victor Novikov is not a threat to the Soviet state. He is simply a man who wishes to be united with his fiance, and to be allowed to marry and to live with his wife. The continuing Soviet refusal to allow him to do this is not comprehensible to me.

I hope that the Soviets will reconsider the case of Victor Novikov, and others like him. I hope that, in the spirit of the upcoming summit meeting and improved relations between our two countries, the Soviet Union will allow Mr. Novikov to emigrate and come to the United States. In the spirit of glasnost, I call upon the Soviets to let Victor Novikov go.

I ask unanimous consent that an article from the Lynn Magazine about Elizabeth Condon and Victor Novikov be printed in the RECORD.

There being no objection the article was ordered to be printed in the RECORD, as follows:

AN OCEAN APART

(By Joan Axelrod)

Their story has all the romance and political intrigue of a best-selling novel. She's a school teacher from Lynn. He's a boyishly handsome Soviet scientist. They met on a blustery Tuesday in Moscow, fell in love, and decided to marry. That's when their problems began. The Soviet government blocked their wedding, at the last minute, in the fall of 1979. Since then, the government has kept the two lovers apart by refusing to let him leave or her enter the country.

Elizabeth Condon, 44, is a slender woman with delicately chiseled features and dark hair flecked with gray. She dresses conservatively and seems, at first glance, a model of decorum. But, beneath the mild manner is the spirit of a fighter. Just when she feels like giving up, something within drives her on. Stubborness. Anger. She's indignant that any government can control whom she marries. Convinced she is too old to bear children, she says, "Clearly, the Soviets made the decision for me."

Her fiancé, Victor Novikov, 55, who is also dark-haired and conservative looking, save for a pixyish smile, agrees that no government should have a say in whom he marries. He's a fighter too, with more to lose in his native country than Condon in hers.

Their friendship has been a long one. Condon first visited Moscow in 1967 as a young woman of 24 on a cultural exchange program about American consumer goods. She and Novikov met at a bus stop. Condon wanted to go shopping but wasn't sure which bus to take, so she asked the person standing next to her. Later she'd find out his name—Victor Novikov—but initially their conversation was limited to bus routes.

Condon rode the bus to her stop, only to find that the shops were closed for lunch. Walking down the street, she heard a voice say, "Are you lost? Can I help you?"

"No," she replied firmly in Russian. But Novikov kept walking beside her anyway. They chitchatted about her stay in Moscow and his graduate school work, then agreed to meet later that afternoon at a museum. The museum date was followed by picnics and trips to the ballet and theater.

They talked about the fountain of youth. He was a firm believer in exercising and eating right to stay young. She smoked (much to his dismay) and thought the fountain of youth was an illusion.

The two also differed in temperament. Although witty and laid-back most of the time, Novikov had a passionate all-or-nothing streak when it came to their budding romance. She, on the other hand, tended to be more nervous about day-to-day matters but easygoing about developing their relationship. Instead of plunging right in, she was willing to take her time. "I don't believe in bells ringing," she explains.

At first Condon viewed Novikov as simply a nice guy and potential pen pal. Even if the Soviet government had hired him to occupy her time (she was working for the U.S. government at the time, and the thought had crossed her mind, although she eventually dismissed it), he struck her as intelligent and well read. Still, the idea of getting involved with someone from so far away didn't really appeal to her.

He, however, looked at things differently. By the time Condon returned to Moscow in 1970, Novikov knew he wanted to marry her. But she turned him down. Devastated, he wanted to break off the relationship altogether. Ultimately, she prevailed on him to keep seeing her for the rest of the visit.

CHANGE OF HEART

Condon returned to Moscow several times in the 1970s, usually on visits with her students, and her feelings about marrying Novikov began to change. Never before had she met a man who enjoyed all the things she enjoyed (from sunbathing to ballet), and whose temperament balanced hers so well.

Also contributing to her change of heart were the facts that by 1979 detente had arrived, and Novikov, who originally had wanted Condon to move to the Soviet Union, agreed to move to the United States. That summer Condon said she would marry him. She and Novikov filed for a wedding license in Moscow and were given a date—Thursday, October 23, 1979—to get married.

Condon returned home, bought a wedding gown, and made travel arrangements for herself and her sister. But the October trip seemed ill-fated from the start. Instead of starting in Moscow and then going to Leningrad as planned, the tour group she had flown over with made a last minute switch in the itinerary. Condon and her sister were in Leningrad—not Moscow—the eve of the wedding. Then the plane was delayed in a snowstorm. Frantically, Condon called Novikov, who was waiting in Moscow with some bad news of his own.

Soviet authorities told him they had received an anonymous tip that he was already married. Novikov insisted that it was a lie, but authorities said they needed to investigate the matter. Time was running out. Having finally arrived in Moscow late Tuesday night, Condon had less than a week left of her visit. She turned to the U.S. Embassy for help but was told that since her passport did not list marriage as the reason for her visit, there was nothing the embassy could do.

In retrospect, Condon wishes she'd been more aggressive with the embassy, or had contacted politicians in Washington then, but at the time all she could do was hope the matter would quickly be resolved.

The last night of her trip Condon donned her cream-colored wedding dress and pinned silk flowers in her hair for a special dinner with Novikov and his family at his sister's house. The prospective bride and groom tried on their wedding bands. Then, instead of banging on their glasses to get the couple to kiss, members of Novikov's family yelled "gorko," or "bitter," in keeping with the Russian tradition of kissing away the bitterness. (Both families have been supportive of the couple. Novikov's mother died in 1982, without seeing the matter resolved.)

Condon and Novikov said good-by, having no idea of what was in store for them. They didn't imagine they would still be unmarried eight years later.

Once the anonymous tip about his marriage was disproved, Novikov tried to reschedule the wedding, to no avail. Altogether, the couple has had nine visas denied. Condon says her applications have come back to Novikov stamped "undesirable" or "inexpedient."

After applying for emigration in 1982, Novikov was fired from his position as an organic chemist doing medical research. He is now unemployed. His position, like that of other separated spouses and fiancés, is similar to that of the Jewish refuseniks, according to Condon: they are ostracized by the government and often by their friends. Novikov does have his family around him. He comes from a well-to-do background, by Soviet standards. Two of his sisters are physicists, his brother's a doctor. The family has a country house in addition to their Moscow home. All the children play musical instruments, (Novikov plays the cello).

Novikov's exist visa requests have been denied on various grounds: one time officials said he did not know Condon well enough; another time they said he was a "valuable scientific worker" (after he had been fired).

He has been beaten up and called to the police station for questioning, according to Condon. "Why do you want to marry an American?" he's been asked. In response, he's written to top officials, deciding his case. Condon says he's even written to Soviet leader Mikhail Gorbachev with words to the effect of, "What would you do if someone told you to get rid of your wife? Why can't I pick whom I want to marry?"

Condon and Novikov aren't the only Russian/American couple waiting to be reunited. According to U.S. State Department information, 80 to 90 percent of the Russians married to Americans (about 100 per year)

are permitted to emigrate within a year; others are still waiting after thirty years.

Condon believes that by not letting everyone out, the Soviets have hostages of sorts they can use as "bargaining chips" in the international diplomatic arena.

Kathleen Lang, a human rights officer for the State Department, says the Condon case has come up several times in Soviet-American negotiations, but, each time, the Soviets have contended that Novikov poses a security risk and should therefore be refused emigration. As an organic chemist, Novikov had been involved in classified research between 1976 and 1977, according to Condon. But Lang is skeptical about how much of a security risk Novikov's old work could really pose.

"After a few years of not practicing, scientists don't know any sensitive information," says Lang. "You don't even need to have done scientific work to be considered a security risk in Russia, however. We never know why one person's considered a security risk and others aren't. It's illogical."

In a telephone interview, Soviet spokesman Vladimir Kuleshov of the Soviet Embassy in Washington, DC, said he saw no contradictions between Gorbachev's new policy of openness and the blocking of Condon and Novikov's marriage. "In every country there are certain rules and certain regulations which exist for the sake of safe security," he said, adding that the Condon-Novikov case is now being reconsidered.

The State Department contends that the Soviets' refusal to let Novikov emigrate violates a clause in the Helsinki Accords requiring participating states to "examine favorably . . . requests for exit or entry permits from persons who have decided to marry a citizen from another participating state." The Soviets signed this agreement in 1975, but when reminded of it in the context of the Condon case, Lang says the Soviets argue back that the United States has violated the human rights accords by failing to address its own problems of unemployment.

The State Department also has received some criticism from the American citizens involved in blocked marriages. Until the past eighteen months, the State Department had not given partners of blocked marriages nearly as much attention as divided spouses. "Part of the problem is deciding who is really engaged and who is not," explains Lang. "It can be difficult to decide." Both governments have a fear of fictitious marriages.

Condon had to fight to get her name on the list for the Vienna negotiations this year, but did so with help from politicians such as Congressman Nicholas Mavroules (D-Massachusetts).

The State Department is now giving blocked marriages a high priority. Having already filed for a marriage license (eight years ago), Condon has had little trouble convincing the State Department that she's truly engaged.

In June, she and eight other divided partners met with Secretary of State George Shultz who assured them of the government's commitment to their cause. Several cases have been resolved in the past two years—often right before high-level meetings such as the Geneva Summit in 1985. "Maybe they wanted to put the U.S. in a good mood for the negotiations, although that hasn't been the case in 1987," says Lang. In these cases, "you can never know what did the trick. You never know what changed their mind."

More light might be shed on the Soviet's point of view during a satellite hookup between Soviet and American legislators scheduled for an October broadcast. The program will tentatively include discussion of blocked marriages and divided spouses.

Mavroules, meanwhile, continues to press Condon's case. "We'll pursue this matter for as long as the Soviet's remain intransigent," says Michael Greenstein, chief district aid for the congressman.

WAITING IS THE HARDEST PART

Each year Condon fills out her Christmas cards with the same note: "Still working on the thing with Victor." Friends have begged her to put a time limit on her waiting, to find someone closer to home. But Condon doesn't take her commitments lightly. It took her twelve years to decide to marry Victor, she says. She's not about to back out while there's still a glimmer of hope.

In the early years of waiting Condon kept a low profile, hoping the situation would resolve itself quietly. But eventually, her patience wore thin. That is when she decided to publicize her case and seek help from politicians.

The decision was a difficult one. Ever since her days in the Russian Club at St. Mary's High in Lynn she's had a fondness for the Russian people and culture. She was afraid her fight would encourage people to think of the Russians as "evil commies," when she really believes the Russians are nice people, for the most part. However, she knew if the marriage was ever to take place, she needed the help of government officials.

"Speaking out" can be a demanding job, however, especially in addition to her full-time job teaching French in the Woburn public schools. She is constantly calling or writing politicians, attending talks by Soviet specialists, or talking to the press. Every proposed summit or mention of the New Soviet openness ("glasnost") puts her on an emotional roller coaster.

While waiting for results, Condon writes to Novikov frequently and calls him every month or two. At two dollars per minute they try to avoid depressing subjects, she says. They try to stay positive, although it is not easy. Last Christmas she got a telegram from Novikov saying "Merry Christmas. Happy New Year. I got another denial.

The denials and the arguments over red tape and futility have put a strain on the relationship. So has the fact that Novikov has not yet learned how to speak English.

But despite the wear and tear, the romance continues, and recently Condon was relieved to discover the same old witty Victor she remembered from their courting days. She had called to ask him to appear on a special satellite hookup of the Donahue Show. The two would be reunited on video. (The show never was filmed, although Condon appeared on another show featuring divided spouses.)

"You've got to look nice and seem intelligent," said Condon.

"What do you mean seem intelligent?" he replied.

"If they ask why Gorbachev's doing this to us, just say you don't understand."

"How can I seem intelligent saying I don't understand?" he teased.

Neither Novikov nor Condon knows for sure why they haven't been allowed to be together. She wants nothing more than to pick him up at the airport and bring him home to the North Shore for a stroll along the beach and a romantic seafood dinner. But she has to wait and see, while the wheels of bureaucracy slowly turn.

DIVIDED AMERICAN AND SOVIET SPOUSES

Mr. DECONCINI. Mr. President, I am pleased to join my colleagues to address a subject which dramatically affects the lives of a small group of individuals. In late August 1985, I traveled to the Soviet Union for the third time as a member of a congressional delegation. During my trip, I had the opportunity to meet personally with several Soviet citizens who have been repeatedly denied the right to emigrate to join their American spouses in this country. Their only fault was to fall in love. Unfortunately, they did so in a nation that does not respect the rights of its citizens to emigrate freely.

I am encouraged that since my last visit to the Soviet Union, positive steps have been taken by the Soviet Government to resolve binational marriage cases. However, there are still some Soviet citizens who are unable to join their spouses in America, including that of Anatoly Michelson who has been kept apart from his wife by Soviet authorities for an incredible 31 years. I am also concerned about what appears to be a concerted Soviet effort to block a small number of marriages.

Mr. President, the most basic family relationship is between husband and wife. The Helsinki Final Act clearly establishes that married citizens of different states should have their requests for exit and entry permits examined favorably and expeditiously in a humanitarian spirit. What the Helsinki Final Act does not do is allow states to second-guess the decision an individual makes about whom they want to be with for the remainder of his/her life. I call upon the Soviet Union to honor its commitments under the binational marriage provision of the Helsinki Final Act and immediately grant emigration permission to the relatively small number of remaining divided spouses. By resolving these personal tragedies, the Soviet Union would be taking a step forward in enhancing trust between our two countries.

DIVIDED SPOUSES

Mr. CRANSTON. Mr. President, I would like to join my colleagues today in condemning the Soviet Union's refusal to grant exit visas to Soviet citizens who are married to Americans. The Helsinki accords and other human rights conventions to which the Soviet Union is a signatory clearly state that married couples should be allowed to transfer their permanent residence to the home nation of either partner. It is a tragedy that the Soviet Government continues to force the separation of married couples, or, in some cases, prevent marriages from taking place.

Two Californian couples are among those cruelly separated by the vagaries of Soviet emigration procedure.

Ann Michele Cardella, of San Francisco, married Leonid L'vovovich Sheyba, a resident of Leningrad on August 13, 1985. Mr. Sheyba has twice applied for permission to join Michele in California. He was refused both times, most recently in December 1986. Soviet authorities continue to harass Leonid by threatening to draft him despite his having high blood pressure and kidney stones.

Gary Kaplan, of Tahoe City, married his Soviet wife, Elan Kaplan, in Moscow over 9 years ago. Elena has not yet been granted permission to emigrate.

As a signatory of the Helsinki accords, the Soviet Union has an obligation to reunite divided families and married couples. It is hard to understand what reason there might be for the continued torment of these people who only wish to live a normal married life together. What possible threat could the reunification of these couples be to the Soviet state?

I strongly urge the Soviet authorities to grant exit visas to Elena Kaplan and Leonid L'vovovich Sheyba without further delay.

DIVIDED SPOUSES

Mr. D'AMATO Mr. President, I rise today to join my colleagues who are speaking on behalf of constituents who are part of United States-Soviet divided or blocked marriages. My constituent, Antonette Bohonovsky, is party to one of the blocked marriages.

Let me briefly tell you the story of Antonette Bohonovsky and Evgeniye Grigorishin. Soviet authorities twice blocked their planned marriage, once on March 15, 1986, and again on May 14, 1986. Evgeniye was sentenced to 5 years in prison on a false charge as a result of their attempts to marry. Antonette was taken into custody and held for interrogation for 1 week in a Soviet hospital. She was also subjected to harassment.

Her case is one of too many such cases. I introduced Senate Joint Resolution 203 on October 15, 1987, calling upon the Government of the Soviet Union:

(1) To grant immediately to all those who wish to join spouses in the United States (including Galina Goltzman Michelson, Yuri Balovlenkov, Victor Faermark, Yegueni Grigorishin, Elena Kaplan, Valdislav Kostin, Victor Novikov, Pyatras Pakenas, Sergei Petrov, Leonid Scheiba, and Andrei Zhitkov) permission to emigrate with their family members to the United States and be reunited with their spouses; and

(2) To give special consideration to cases that have remained unresolved for many years, the longest of which is the case of Galina Goltzman Michelson and her daughter and grandson.

As of this moment, 32 of our colleagues have joined me as cosponsors of this resolution. I hope it will be reported from the Committee on Foreign Relations in the very near future so that it may be signed by the President before the December 7, 1987, summit meeting.

As former chairman of the Commission on Security and Cooperation in Europe—better known as the Helsinki Commission, I am particularly concerned over the failure of the Soviet Union to honor its promises in the Helsinki Final Act on this subject. The final act, which Leonid Brezhnev signed in Helsinki for the Soviet Union on August 1, 1975, provides as follows:

The participating States will deal in a positive and humanitarian spirit with the applications of persons who wish to be reunited with members of their family, with special attention being given to requests of an urgent character—such as requests submitted by persons who are ill or old; and

In dealing with requests from couples from different participating States, once married, to enable them and the minor children of their marriage to transfer their permanent residence to a State in which either one is normally a resident, the participating States will also apply the provisions accepted for family reunification.

While there has recently been some good progress in resolving these outstanding cases, Antonette Bohonovsky is still separated from her fiance. The others listed in my resolution are still kept apart from their loved ones.

I strongly urge the Soviet Union to respond favorably in these cases. It is time to let these people go.

Mr. President, I ask unanimous consent that two documents be printed in the RECORD immediately following my remarks: A joint letter Congressman CONNIE MACK and I sent to the Deputy Secretary of State dated November 3, 1987, regarding Senate Joint Resolution 203 and its companion House measure, House Joint Resolution 376; and a State Department cable containing the text of an earlier letter signed by 16 Senators in support of our constituents in these divided and blocked marriages, identified as State 328205, dated October 20, 1987, from Armacost to the American Embassy in Moscow.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, November 3, 1987.

Hon. JOHN WHITEHEAD,
Deputy Secretary,
Department of State, Washington, DC.

DEAR SECRETARY WHITEHEAD: We understand that you will be visiting Moscow soon to discuss human rights issues in preparation for the December 7 U.S.-Soviet Summit in Washington, D.C.

You and Secretary Shultz have always given human rights a high priority in your negotiations with Soviet officials. As you are aware, there are a number of unresolved cases involving spouses who have not been allowed to emigrate from the Soviet Union. We believe that these cases merit immediate action and should receive close attention during these meetings.

We have introduced legislation in the House and Senate calling upon the Soviets to resolve quickly these troublesome cases and to give highest priority to the longer-standing cases, such as that of Galina Golzman-Michelson. These resolutions, H.J. Res. 376 and S.J. Res. 203, have garnered significant support in Congress and it is our intention that this legislation reach the President for signature before the December 7 summit.

We believe it is important that the Soviets understand that the United States Congress sees a direct correlation between progress in human rights issues and progress in other areas, such as nuclear arms reduction. You have our best wishes for your efforts to persuade the Soviets that progress in the human rights arena is crucial to improved relations between our two countries.

Sincerely,

ALFONSE M. D'AMATO,
U.S. Senator.
CONNIE MACK,
Member of Congress.

DEPARTMENT OF STATE.

The following letter was received in the Department for transmission to Secretary Shultz.

DEAR SECRETARY SHULTZ: We, the undersigned United States Senators, representing our constituents who have been unjustly separated from their loved ones, wish to express our continuing appreciation for your efforts to reunite these couples, as the Soviets promised when they signed the Helsinki accords in 1975.

During your upcoming talks with Minister Shevardnadze, please convey our sincere desire to resolve these cases. If we are to begin a new relationship with the Soviets, our most basic principles of human rights must be respected. Reuniting these spouses and permitting these blocked marriages to occur are easy, but essential ingredients in building that relationship.

Thank you and best of luck in your discussions.

Sincerely,

Senators Chiles and Graham (Florida) on behalf of Anatoly Michelson and his wife, Galina Goltzman Michelson; Dr. Galina Vileshina and her husband, Pyatras Yuozo Pakenas; Senators Sarbanes and Mikulski (Maryland) on behalf of Elena Kusmenko Balovlenkov and her husband, Yuri Balovlenkov; Senators Riegle and Levin (Michigan) on behalf of Keith Braun and his wife, Svetlana Ilyininchna Braun; Senators Cranston and Wilson (California) on behalf of Michele Cardella and her husband, Leonid Shieba; Senators Dixon and Simon (Illinois) on behalf of Elizabeth Zhitkov and her husband, Andrei A. Zhitkov; Senators Bradley and Lautenberg (New Jersey) on behalf of Andrea Wine and husband, Viktor Faermark.

SOVIET JEWRY

Mr. SIMON. Mr. President, the divided spouse and blocked marriage issue is one which has yet to be resolved. There are still Soviet-American couples who have been sentenced to an indefinite separation. These couples are being denied the right to build

their futures together, because Soviet officials are refusing to grant exit visas. Incredibly, one couple has been separated for more than 20 years.

A few years ago, I worked with some of the spouses to form the Divided Spouse Coalition. The purpose of the coalition was and still is to provide support for the American spouses and to organize an effective lobbying effort for their cause. When we started, there were over 30 couples. Since that time, almost two-thirds of these couples have been reunited.

Keith Braun, one of the original organizers, has been a divided spouse for over 3 years. I am pleased to report that his wife, Svetlana, arrived in the United States on Tuesday, after being separated from her American husband for 3 years. The Braun's story is one of success. Unfortunately, there are still many who live day-to-day and year-to-year in hopes of the same success.

A perfect example of this is in my home State of Illinois. Elizabeth Crewe and Andrei Zhitkov fell in love and got married. From then on their's is anything but an ordinary story for the Soviet Union refuses to make a decision on Andrei's exit visa application. In the United States, Elizabeth has been separated from her husband for the 8 months they have been married. In the Soviet Union, Andrei has been told repeatedly that he will be granted an exit visa in order to join his wife if he follows certain "instructions." Homeless and unemployed, he is still waiting. This does not make sense to me.

Soviet law is clear in permitting married couples to select their place of residence. Moreover, the Soviet Government signed the Helsinki accord. The governments that signed that document agreed to "examine favorably and on the basis of humanitarian consideration requests for exit or entry permits from persons who have decided to marry a citizen from another participating State." I do not believe it is asking too much to ask the Soviet Government to live up to its own laws and the international agreements it signed.

I'm grateful that the Soviet Union has permitted Svetlana and Keith to live together. But I wait impatiently for word on the rest, and for a more humane, sensible policy on the part of the Soviet Government. I urge the Soviet Government to grant these individuals exit visas.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Emery, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

ENROLLED JOINT RESOLUTIONS SIGNED

At 11:06 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled joint resolutions:

S.J. Res. 66. Joint resolution to designate the week of November 22, 1987, through November 28, 1987, as "National Family Week"; and

S.J. Res. 154. Joint resolution to designate the period commencing on November 15, 1987, and ending on November 22, 1987, as "National Arts Week".

The enrolled joint resolutions were subsequently signed by the President pro tempore (Mr. STENNIS).

At 1:57 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 394. Joint resolution making further continuing appropriations for the fiscal year 1988, and for other purposes.

ENROLLED BILL SIGNED

At 4:05 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

S. 442. An act to amend chapter 9 of title 17, United States Code, regarding protection extended to semiconductor chip products of foreign entities.

The enrolled bill was subsequently signed by the President pro tempore (Mr. STENNIS).

MEASURES PLACED ON THE CALENDAR

The following bill and joint resolution were read the first and second times by unanimous consent, and placed on the calendar:

H.R. 3295. An act for the relief of Nancy L. Brady;

H.J. Res. 394. Joint resolution making further continuing appropriations for the fiscal year 1988, and for other purposes.

The following measures were read the second time, and placed on the calendar:

H.R. 3545. An Act to provide for reconciliation pursuant to section 4 of the concurrent resolution on the budget for the fiscal year 1988; and

S. J. Res 204. Joint resolution calling for an economic summit to deal with the financial crisis.

ENROLLED JOINT RESOLUTIONS PRESENTED

The Secretary of the Senate reported that on today, November 5, 1987, he had presented to the President of the United States the following enrolled joint resolutions:

S.J. Res. 66. Joint resolution to designate the week of November 22, 1987, through November 28, 1987, as "National Family Week"; and

S.J. Res. 154. Joint resolution to designate the period commencing on November 15, 1987, and ending on November 22, 1987, as "National Arts Week".

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BIDEN, from the Committee on the Judiciary, without amendment:

S. 860: A bill to designate "The Stars and Stripes Forever" as the national march of the United States of America.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. BIDEN, from the Committee on the Judiciary:

Clarence A Beam, of Nebraska, to be U.S. circuit judge for the eighth circuit;

Robert E. Cowen, of New Jersey, to be U.S. circuit judge for the third circuit;

George C. Smith, of Ohio, to be U.S. district judge for the southern district of Ohio;

Michael B. Mukasey, of New York, to be U.S. district judge for the southern district of New York;

Nicholas H. Politan, of New Jersey, to be U.S. district judge for the district of New Jersey;

R. Kenton Musgrave, of California, to be a judge of the U.S. Court of International Trade; and

William D. Breese, of Georgia, to be U.S. marshal for the middle district of Georgia.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. MELCHER:

S. 1849. A bill for the relief of Mr. Conwell F. Robinson and Mr. Gerald R. Robinson; to the Committee on Energy and Natural Resources.

By Mr. EVANS (for himself and Mr. ADAMS):

S. 1850. A bill to amend the Wild and Scenic Rivers Act to designate a section of the Columbia River in Washington as a study area for inclusion in the National Wild and Scenic Rivers System and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BIDEN (for himself, Mr. PROXMIRE, and Mr. METZENBAUM):

S. 1851. A bill to implement the International Convention on the Prevention and Punishment of Genocide; to the Committee on the Judiciary.

By Mr. FOWLER:

S. 1852. A bill to amend the National Security Act of 1947, and for other purposes; to the Select Committee on Intelligence.

By Mr. LAUTENBERG (for himself and Mr. BRADLEY):

S. 1853. A bill to designate the facility of the United States Postal Service located at 850 Newark Turnpike in Kearny, New Jersey, as the "Dominick V. Daniels Postal Facility"; to the Committee on Governmental Affairs.

By Mr. QUAYLE:

S. 1854. A bill to amend the Federal Food, Drug, and Cosmetic Act to include and regulate a polygraph as a medical device under such act, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. STAFFORD:

S. 1855. A bill to authorize a certificate of documentation for the vessel White Seal; to the Committee on Commerce, Science, and Transportation.

By Mr. SASSER (for himself, Mr. HEINZ, Mr. GLENN, and Mr. HATFIELD):

S. 1856. A bill to amend chapter 25 of title 44, United States Code, to provide an authorization for the National Historical Publications and Records Commission programs, and for other purposes; to the Committee on Governmental Affairs.

By Mr. DIXON:

S.J. Res. 212. Joint resolution to designate the period commencing May 8, 1988, and ending on May 14, 1988, as "National Tuberous Sclerosis Awareness Week"; to the Committee on the Judiciary.

By Mr. ADAMS (for himself, Mr. CRANSTON, Mr. WEICKER, Mr. BUMPERS, Mr. MATSUNAGA, and Mr. PROXMIRE):

S.J. Res. 213. Joint resolution providing specific authorization under the War Powers Resolution for the continued use of United States Armed Forces in the Persian Gulf, consistent with the foreign policy objectives and national security interests of the United States; to the Committee on Foreign Relations.

By Mr. LAUTENBERG (for himself, Mr. DANFORTH, Mr. HOLLINGS, and Mr. GORE):

S.J. Res. 214. Joint resolution to designate the week of February 7-13, 1988, as "National Child Passenger Safety Awareness Week"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. RIEGLE (for himself, Mr. DOLE, Mr. BYRD, Mr. BUMPERS, Mr. LAUTENBERG, Mr. SARBANES, Mr. MOYNIHAN, Mr. SIMON, Mr. GLENN, Mr. DECONCINI, Mr. DURENBERGER, Mr. LEAHY, Mr. LEVIN, Mr. PROXMIRE, Mr. PRYOR, Mr. PRESSLER, Mr. MURKOWSKI, Mr. DIXON, Mr. BURDICK, AND Mr. KASTEN):

S. Con. Res. 87. Concurrent resolution expressing the sense of the Congress with respect to demonstrations in Latvia commemorating Latvian Independence Day; placed on the calendar.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MELCHER:

S. 1849. A bill for the relief of Mr. Conwell F. Robinson and Mr. Gerald R. Robinson; to the Committee on Energy and Natural Resources.

RELIEF OF CONWELL F. ROBINSON AND GERALD R. ROBINSON

● Mr. MELCHER. Mr. President, I am introducing today a private relief bill for two of my constituents, Mr. Conwell Robinson, and his brother, Mr. Gerald Robinson. The Robinson brothers, who are in their seventies and live in Great Falls, MT, previously owned a 130-acre tract of property in Glacier National Park in northwestern Montana. However, their property was taken from them in a condemnation proceeding by the U.S. Government in 1967. The Robinson brothers lived on their property in the summers throughout most of their lives until 1984 at which time the Government refused them further use of their property. This property was homesteaded by their maternal grandparents prior to the creation of Glacier National Park.

It has been the established policy of the National Park Service to grant life estates to private owners of property who sell their land to the Government and who request use of their property for the rest of their lives. That policy was not followed in the case of the Robinson brothers. After conducting my own personal investigation of this matter, I am convinced that these two gentlemen were not treated fairly by the U.S. Government. They are asking only that they be treated as others have been treated. That is the humane thing for the Government to do, and my bill will allow that result. Specifically, my bill would extend to their lifetime a special use permit similar to that which the Government had issued to the Robinson brothers from 1969 through the summer of 1984. My bill does not transfer any ownership rights to the Robinson brothers beyond allowing them the use of the property.

I realize that in-holder land ownership issues can be complex and burdensome for the Park Services. I do not wish to add to the Park Services' administrative burdens, nor do I seek to establish a precedent that will jeopardize the Government's legal position in subsequent controversies over private property claims within the boundaries of Glacier National Park. The intent and, I believe, the effect of my bill is simple: to allow two senior citizens the right to use their family homestead until their death. The bill is directed only to the Robinson brothers and addresses their special circumstances which I expect will be brought out in adequate detail when this bill receives due consideration in a committee hearing at the appropriate time.

Thank you, Mr. President. I ask that the text of the bill and a letter to Mr. Con Robinson from the Department of the Interior be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1849

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a)(1) the Secretary of the Interior shall grant a life estate special use permit to Mr. Conwell F. Robinson and Mr. Gerald R. Robinson to use the property in Glacier National Park described in paragraph (2).

(2) The property referred to in paragraph (1) is Tract 398 which is property formerly owned by Robinson brothers. The property was originally homesteaded by maternal grandparents of the Robinson brothers prior to the creation of Glacier National Park and was deeded to their grandmother, Margaret McCarthy, but President Woodrow Wilson on April 23, 1915. Tract 398 was taken from the Robinson brothers by condemnation through an eminent domain action brought by the United States Government in 1967.

(b)(1) The special use permit granted by this Act shall be extended for a period coincident with the lives of Conwell F. Robinson and Gerald R. Robinson.

(2) The special use permit granted by this Act shall grant to Conwell F. Robinson and Gerald R. Robinson reasonable use of the property.

(c) Any fee collected for the special use permit required by this Act shall be fair and reasonable and in an amount necessary to cover the administrative costs associated with granting the permit, except that in no event shall the fee collected exceed $100 per annum.

(d) The Secretary shall promulgate such regulations as the Secretary deems are necessary to insure that the life estate special use permit granted by this Act does not unreasonably diminish the scenic, historic, and other values for which the Glacier National Park was established.

NATIONAL PARK SERVICE,
GLACIER NATIONAL PARK,
West Glacier, MT, October 29, 1987.

Mr. CON ROBINSON,
Great Falls, MT.

DEAR MR. ROBINSON: The time limit has expired for the removal of your personal items from the cabins. The items will be inventoried and government locks will be put on the buildings.

You have 15 days from the day you receive this letter to remove the items. Please contact Roger Semler, Polebridge Sub-District Ranger, to make arrangements for access.

Any items left in the buildings after the cut-off date will be considered abandoned and will become government property and be disposed of.

Sincerely,

H. GILBERT LUSK
Superintendent.●

By Mr. EVANS (for himself and Mr. ADAMS):

S. 1850. A bill to amend the Wild and Scenic Rivers Act to designate a section of the Columbia River in Washington as a study are for inclusion in the National Wild and Scenic Rivers System, and for other purposes; to the Committee on Energy and Natural Resources.

WILD AND SCENIC RIVERS STUDY OF THE COLUMBIA RIVER IN WASHINGTON

Mr. EVANS. Mr. President, I rise today along with my distinguished colleague from Washington, Mr. ADAMS, to introduce legislation to authorize a study of the Hanford Reach of the Columbia River in Washington State for potential inclusion in the National Wild and Scenic Rivers System.

The Hanford Reach is the last significant stretch of the Columbia River that maintains the characteristics of the predevelopment mid-Columbia River ecosystem. The reach extends for approximately 55 miles between the McNary Pool north of Richland to just south of the Priest Rapids Dam.

The reach provides the most diverse natural habitat on the Columbia River. Similar habitat has been completely eliminated on the remainder of the Columbia River. Species found along the reach include migratory waterfowl, salmon, steelhead, sturgeon, coyote, deer, and a variety of plant species, some of which are proposed for classification as endangered, threatened, or sensitive by Federal and State agencies. The reach is highly valued for its natural spawning beds that support one of the few wild stocks of fall chinook.

The Hanford Reach is also vastly important for its archeological resources. Because access to the river has been restricted as a result of the presence of the Department of Energy's Hanford Reservation, these sites have been remarkably free of vandalism. The Hanford Reach sites are also rare in that the majority of other sites along the river have been inundated by hydroelectric development. Research by the Mid-Columbia Archeological Society has revealed evidence of at least 115 sites along the river. There have been estimates of at least 4.5 sites per river mile of shoreline. Many of these sites have religious and spiritual significance for native Americans. In fact, this area was the birthplace of the Native American Dreamer Religion. For the Yakima and Wanapum Indians, it is the last area in the entire Columbia Basin where their religious places and burial sites have not been flooded or destroyed.

Mr. President, the desire to protect the Hanford Reach to date has been farreaching. In September 1970, the Department of the Interior and the Department of Agriculture identified the Hanford Reach as 1 of 47 rivers nationwide that were deserving of further evaluation under section 5(d) of the Wild and Scenic Rivers Act. In 1982, the Department of the Interior placed the Hanford Reach on the nationwide rivers inventory list.

The State of Washington has also expressed interest in protecting the Hanford Reach. The Washington Parks and Recreation Commission has initiated consideration of the Hanford Reach for State scenic river status. The Washington State Department of Natural Resources-Natural Heritage Program and the Department of Wildlife have recommended that the reach be placed on the Washington Register of Natural Areas. In 1973, the State ecological commission passed a resolution endorsing "the development and implementation of an integrated, comprehensive resource management program by the various responsible agencies for the future use, protection and enhancement of this area, so that it's basic environmental uniqueness will be preserved."

Mr. President, this legislation would primarily authorize the Department of the Interior to conduct a study of the Hanford Reach to determine it's eligibility for inclusion in the National Wild and Scenic Rivers System. It also provides that the protections afforded under the Wild and Scenic Rivers Act be extended for a period of 8 years. This is to ensure that there is ample time for Congress to consider permanent designation.

The Corps of Engineers is in the process of completing an environmental impact statement on the mid-Columbia navigation project that would allow barge traffic through this area. This legislation will not prohibit the Corps of Engineers from completing its environmental impact statement on this project. It will however prohibit any activities that will have an adverse impact on the resources for which the river is being protected. It would prohibit the corps from proceeding with an ill-conceived project to destroy a natural spawning channel by replacing it with an artificial channel to measure the effectiveness of an artificial spawning bed as mitigation for the navigation project. Given the paucity of natural spawning habitat remaining on the Columbia River, I do not believe that this demonstration project should proceed. This legislation will ensure that the river is protected for an adequate period of time so that the study can be completed and Congress can make a final determination.

Mr. President, I urge my colleagues to support the speedy passage of this worthwhile legislation. I ask unanimous consent that the full text of the bill be printed in the RECORD, and that articles from the Seattle Post-Intelligencer be included as part of the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1850

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORIZATION OF STUDY.

Section 5(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1276) (herafter in this Act referred to as the "Act") is amended by adding the following new paragraph at the end thereof:

"(96) Columbia, Washington.—The segment extending from one mile below Priest Rapids Dam downstream approximately 57 miles to the McNary Pool north of Richland, Washington, as generally depicted on the boundary map entitled 'Proposed Columbia River Wild and Scenic River Boundary' dated ——, 1987, which is on file at the United States Department of the Interior.".

SEC. 2. COMPLETION DATE.

Section 5(b) of the Act (16 U.S.C. 1274(b)) is amended by adding the following at the end thereof:

"(8) The study of the river named in paragraph (96) of subsection (a) shall be carried out by the Secretary of the Interior, in consultation with the Secretary of Energy, and shall be completed not later than one year after the date of enactment of this paragraph.".

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

Paragraph (4) of section 5(b) of the Act (16 U.S.C. 1274(b)) is amended by adding at the end thereof the following: "There are authorized to be appropriated for the purpose for conducting the study of the river named in paragraph (96) $150,000.".

SEC. 4. SPECIAL PROVISIONS.

The provisions of section 7(b) of the Act (16 U.S.C. 1278(b)) shall extend for a period of 8 years from the date of enactment of this Act with respect to the segment of the Columbia River proposed for inclusion in the National Wild and Scenic Rivers System in this Act.

[From the Seattle Post-Intelligencer, Aug. 7, 1987]

ARMY WAGES WAR ON NW FISH

(By John de Yonge)

The Army Corps of Engineers is proposing a last-ditch effort to justify plans to destroy much of the last natural salmon and steelhead-trout spawning areas on the Columbia River.

The corps next month wants to bulldoze a 1,500-foot artificial spawning channel on the China Bar of the Columbia's Hanford Reach. The 57-mile-long reach near the Tri-Cities is the only free-flowing stretch of the Columbia above Bonneville Dam.

The corps also intends to bulldoze forth an artificial river bar and to plunk mounds of shoreside cobblestones into the river. It says it need not write an environmental impact statement about all this.

Noel Gilbrough of the corps said this is an honest attempt to see if the corps can invent spawning areas along or in the river to replace miles of natural spawning beds that the corps would dig up as part of a proposed $190 million project to float deepwater, sea-going barges upriver to Wenatchee.

"We definitely will be dredging river bottoms used for spawning in the Hanford Reach," Gilbrough said. "We've proven that. There's no doubt about that in anybody's mind, including the Corps of Engineers. The question is, what to do to replace the losses?"

Gilbrough is managing the corps' study of the dredging-barging project, a pet plan of Wenatchee business interests and of the Port of Chelan there.

A draft environmental impact statement on the dredging-barging project is scheduled for about Nov. 1, too soon to know if artifical "natural" spawning areas work.

The Yakimas, other Indian tribes, environmentalists, sportsmen, state and federal fisheries and wildlife agencies oppose the dredging-barging project.

A drive is beginning to get the Hanford Reach classified under the U.S. Wild and Scenic Rivers Act. Such classification would forever ban dredging, damming or otherwise havocking the reach.

The natural spawning areas of the reach produce upwards of 300,000 "upriver bright" fall chinook salmon, a unique run preserved and increased by years of lawsuits, negotiations and agreements by state, federal and Indian agencies. Steelhead—searun rainbow trout that grow to salmon size—also spawn where the dredges would rip.

The spawning channel and related activities would cost $100,000 and would severely alter an area that Hanford Reach enthusiasts want preserved as wild or scenic river terrain.

The experiment could provide little information for the draft environmental impact statement on the dredging-barging project.

"We hope like hell fish show up there . . .," Gilbrough said of the channel. "If they don't, we've got problems . . . a lot of people are praying that they don't, of course."

The draft environmental impact statement will offer artificial spawning areas built by or in the river as "unproved mitigation" for the severe fish losses from the dredging, Gilbrough said.

Gilbrough said the corps would monitor only whether fish spawn in the new facilities, whether eggs hatch and fry head for the sea. Whether fry survive, whether salmon using the channel originally hatched there, whether survival equals natural survival—these would wait until Congress OKs the dredging-barging project.

Dr. William Hershberger of the University of Washington School of Fisheries, a habitat expert, said the channel project cannot yield data that's meaningful before Congress is asked next year to fund the dredging-barging project. Such experiment, he said, requires years to produce significant information.

Larry Burnstad, private consultant on fisheries habitat, said having fish show up to spawn means little by itself. "I can show you where fish spawn because they have no choice. That doesn't mean offspring will survive."

Grant County PUD in 1980 bulldozed an experimental 450-foot spawning channel upstream from the corps' proposed site. The PUD's environmental supervisor, Donald Ziegler, said the last count showed 35 places in that channel that salmon used for spawning.

Asked if such results allowed the generalization that man can build "natural" spawning areas to replace the natural spawning areas he destroys, Ziegler said: "No."

Opposition from state and federal fish and wildlife agencies over the 30-day response time now running could slow and—theoretically—even stop the channel and related experiments.

So could a lawsuit testing whether the project can go forward without the preparation of an environmental impact statement on what bulldozing the Hanford Reach's China Bar might bring about. One impact might be to foreclose ever classifying that area under the Wild and Scenic Rivers Act. It's something to think about.

[From the Seattle Post-Intelligencer, Sept. 25, 1987]

CORPS' PLAN FOR COLUMBIA RIVER MEETS STRONG RESISTANCE

(By John de Yonge)

U.S. Sen. Dan Evans has ordered staff to prepare federal legislation to preserve the Hanford Reach—the last free-flowing stretch of the Columbia River above Bonneville Dam—from damming, dredging and other drearies dear to the U.S. Army Corps of Engineers.

Work to prepare a bill has just started, Evans said from Washington, D.C., "but I think putting the Hanford Reach under U.S. Wild and Scenic Rivers Act designation would be the most straightforward way to go." Hopes are to put a bill before Congress this year.

Evans' aim has the support of U.S. Sen. Brock Adams, who hopes "we can make good use of the Hanford Reach and have it designated as wild and scenic river."

The reach, 57 miles long, begins at Priest Rapids Dam and ends at Richland. Much of it borders or flows through the Hanford Nuclear Reservation. Miles of the Columbia there are much as they were in pioneer days.

Earlier this month Evans and Adams, in a stern letter, joined with U.S. Rep. John Miller of Seattle, the state of Washington, federal agencies, Indian tribes, environmental groups and hunting and fishing organizations to protest possibly the dumbest proposal to issue from the Corps of Engineers in years.

It was, on short notice, to bulldoze a 1,500-foot channel this month along the Columbia to see if any of the 100,000 Chinook salmon now returning to the Beach would spawn there.

Such spawning, the Corps said, would show that bulldozing more channels could replace natural salmon and steelhead trout spawning areas along the reach that the Corps would destroy by dredging. These are the last spawing areas for salmon and steelhead left on the entire length of the Columbia.

Without dredging the spawning shallows, the Corps cannot bring off a boondoggle mutually drummed up with Wenatchee's Port of Chelan. It is to have seagoing barges tugged up the Hanford Reach daily to Priest Rapids Dam for mechanical lift over the dam. Other lifts over other upstream dams would allow the barges to arrive at Wenatchee. Then, supposedly groaning with the cargoes from that area, they would head down stream for the sea. All this would cost federal taxpayers about $200 million to build, assuming the Corps estimates approximate actual costs, which they sometimes do.

For decades, the Corps has been spending millions trying to fiddle a scheme to get barges to Wenatchee, proving the adage that no idea is too discredited for the Corps to abandon if hope glimmers that Congress will slop it with dollars and so keep Corps functionaries (mainly career civilians, bossed in theory by Army officers) drawing paychecks.

The newly formed Columbia River coalition of environmental and sportsmen's groups and Columbia River Indian tribes—aiming to preserve the Hanford Reach in its natural state and being coordinated by the Nature Conservancy here—jumped on the Corps' gamble to bulldoze around Congress refusal to approve any project that destroys the Columbia's last naturally spawning salmon and steelhead.

State and federal wildlife agencies rained scientific criticism upon the scheme. Washington state refused to issue permits. Rep. John Miller demanded a full environmental impact study, which the Corps did not want to do. Then the letter from Evans and Adams told Maj. Gen. Mark J. Sisinyak, Corps boss in these parts, that he had the project state's senators opposed.

Political lightning. Before it flashed, the Corps ducked for cover. Bulldozing a channel, it admitted, would be delayed. What about the entire project, which would destroy the Hanford Reach to satisfy Wenatchee's dream of seeing barnacled barges? Corps brass, including troubleshooters from Washington, D.C., are going to deepthink that next month.

All this has embarrassed the project's main political gun, U.S. Rep. Sid Morrison of Yakima, who blames the Corps for "muddying the water" and "raising a red flag" with its spawning-channel blunder. Now, Morrison said, he won't commit to dredging and barging or to sinking the scheme until he weighs "the impacts and options based on a thorough environmental impact statement."

Morrison could shorten his agonizing and burnish his reputation by sponsoring in the House the bill to save the Hanford Reach that Evans will sponsor in the Senate.

Once the reach is protected, political noodling to make Wenatchee a seaport will stop. And Morrison won't have to decide whether he's for or against the reach when he runs for re-election next year.

DREDGING WOULD KILL COLUMBIA'S LAST FREE STRETCH

(By John de Yonga)

A bad idea—dredging the last free-flowing stretch of the Columbia River—is under study again by the U.S. Army Corps of Engineers.

It faces massive opposition by Indian tribes and environmental and sportsmen's groups. If Congress authorizes dredging, it probably will spark a dispute with Canada under the new U.S.-Canada Pacific Salmon Treaty.

The Corps is studying whether to dredge up to 7 feet of cobblestones off the shallows of six or more miles of the Hanford Reach, the last undammed water on the Columbia, to extend deep-water barge navigation up river to Wenatchee.

At one shallow point, Ringold, dredging may go down to 14 feet.

From its head at Priest Rapids Dam to its tail at Richland, most of the Reach is uninhabited because much of it flows through or by the U.S. Hanford Nuclear Reservation.

But thousands of anglers, hunters, boaters, bird watchers, picnickers and others value and visit the free-flowing river throughout the year.

Dredging threatens the only salmon and steelhead-trout spawning grounds remaining on the Columbia, especially the spawning grounds for the river's last remnant stock of wild fall chinook salmon.

These are the prized "fall up-river brights," an internationally managed run central to the salmon-treaty talks.

Five years ago, these fish were nearly extinct. This year, 100,000 are spawning in

areas the Corps' "Middle Columbia Preliminary Navigation Study" targets for dredging.

In all, 300,000 up-river brights, most spawned naturally in the Hanford Reach, entered the Columbia this year, to the delight of commercial, Indian and sports fishermen. It was the biggest run of these fish since Bonneville Dam near Portland, Ore., was completed in 1938, according to the state Fisheries Dept.

The Hanford Reach is 57 miles of currents, bars, islands, bluffs and other river terrain rich with fish and wildlife, desert scenery, Indian archaeological sites, remoteness and all aesthetics of the big, clear, sweet-water river known by pioneers.

Dams have impounded the rest of the Columbia, upstream beyond the U.S.-Canada border and downstream to Bonneville Dam, into sluggish pools.

For decades, commercial interests in and around Wenatchee have pushed the Corps for a plan Congress would buy to bring subsidized barge transport to central Washington to move wheat and other bulk cargoes down to Portland and Vancouver, Wash. These products now move by truck and railroad. Some of them move to Puget Sound ports barging would bypass.

Between Wenatchee and the lower Columbia are the Reach and Priest Rapids, Wanapum and Rock Island dams. The Reach is too shallow for deep-draft barges. The dams contain no locks.

The Corps, a cadre of civilian engineers patinated by Army brass, has tried to oblige Wenatchee's wants. But one scheme after another has withered under economic scrutiny and the moral outrage and political savvy of groups that want the Hanford Reach preserved as a recreation area free of dredges, dams and other river killers.

In partners with the Port of Chelan in Wenatchee—and relying on Ogden Beeman & Associates, a consulting firm hired by the port to resurrect bringing barges to up-river grain bins—the Corps has begun a feasibility study on a new scheme to float barges over financial and environmental shoals.

The study has one strength: Noel Gilbrough, manager of the Corps study, a bright, environmentally conscious engineer who contrasts mightily to previous Corps managers. Their attitude was: Stick it, citizens, we'll build it whether you like it or not, and screw the fish runs.

A lot of water has run over their dams since, and reams of environmental legislation passed consequently, and billions spent trying to mitigate the harm they, the U.S. Bureau of Reclamation and public and private utilities wreaked upon what was once the world's greatest salmon and trout runs.

Gilbrough credits Ogden Beeman with reviving the Corps' interest in barges to Wenatchee with two new ideas.

One is to tow heavily laden barger down the Hanford Reach on the daily surge of water released by Priest Rapids Dam to generate electricity for the daily power-use peakin the Pacific Northwest.

"That's 7 to 10 feet of water, 7 to 10 feet of additional dredging we may not need, Gilbrough says.

Less dredging means less cost. Less cost means the overall project may meet the law's demand that a dollar spent on a project return more than a dollar in economic benefits.

Less dredging perhaps means less harm to the salmon and steelhead spawneries in the reach's 57 miles, the only bit of river left for them out of the Columbia's 1,200 miles.

Ogden Beeman's other new idea is to use mechanical or railroad lifts to haul the barges up and down Priest Rapids and the other dams.

Such lifts are used in Europe and cost a fraction of what one lock in one dam would cost.

Gilbrough says a complete system to land barges at or near Wenatchee—initial and annual dredging lift systems, docking and other facilities—"would cost from about $160 million to $190 million, which is about what it would cost to build just one conventional lock in a dam. So we're looking at a considerable cost savings over a lock system."

He's convinced that more research by Ogden Beeman and others will come up with the economics on bull: shipments of wheat, wood and petroleum products, aluminum products (from Alcoa's Wenatchee plant) and fertilizers to justify the project.

He's sure that once the National Marine Fisheries Service and the U.S. Fish and Wildlife Service supply the Corps with facts about the fish and wildlife, then most environmental impacts can be avoided, mitigated or even cured.

Consider the problem of disposing of the millions of tons, hundreds of thousands of cubic yards, of melon-sized cobblestones to be dredged.

"We're not sure yet what we will do with the dredge spoils," Gilbrough says, "We may try to build another Vernita Bar with the dredged gravels. . . . We're going to try to do something with the spoils to improve the Hanford Reach."

The Vernita Bar is a miles-long bar below Priest Rapids Dam where fall Chinook spawn. Thousands of steelhead trout probably spawn there, too, The bar is a target for dredging.

Fisheries experts say no one has ever tried in any river such a massive experiment in disrupting and trying to re-create major fish spawning areas.

News of the project sparks expressions of incredulity. Typical is the response of Ed Sheets, executive director of the federally ordained Northwest Power Council, preparing a fish and wildlife program for the Columbia River Basin.

"You're not making this up?" Sheets asks. Told no, he says any such project must square itself with the council's planning.

Indian opposition is set.

Lynn Hatcher, Yakima Nation Fisheries manager, says the Port of Chelan bounced the dredging idea off the Yakima Council two years ago. "The tribe is flat against the whole idea. We told the port people they're wasting their time and taxpayers' money. . . . The tribe will be spending a lot of attorney time killing this project if it starts to come about."

The Yakimas, Nez Perces, Warm Springs and Umatillas, through their Columbia River Inter-Tribal Fish Commission, were main players in the U.S.-Canada Salmon Treaty. They ensured that having both nations protect the Columbia fall chinook is a major part of that agreement.

The commission is on record as absolutely opposing any dredging of the Hanford Reach. Sources say Tim Wapato, commission chairman and member of the Pacific Salmon Commission that oversees the Salmon Treaty, certainly would lay any dredging proposal before the international commission for action.

Another Salmon Commission member, Bill Wilkerson, until recently director of the state Fisheries Dept., was surprised to hear of the proposal to dredge the Reach.

"I can tell you," he says, "we've fought like hell to build that up-river-bright fall chinook run. And to protect that run is one major reason we fought to get the treaty with Canada."

News that corps surveyors are looking at a potential barge channel has stirred a call to arms by the Tri-Cities-based Columbia River Conservation League, founded in the 1960s by environmental, hunting and fishing groups to fight proposals to dam or dredge the Reach.

The league is mustering its members, according to its chairman, Richard Steeler, Hanford technican and sportsman. "We intend to stop this before it gets further in the Corps process," he says.

The Sierra Club and Friends of the Earth here say they will fight any dredging of the free-flowing river. Trout Unlimited, the region's biggest sports fishing group, will oppose dredging, Executive Director Jerry Pavletich says, unless the Corps can supply what no one can supply: "absolute proof that the fall chinook spawnery won't be damaged."

U.S. Rep. Sid Morrison, R-Yakima, whose district includes the Reach, says he favors the project. But he admits all he knows about the idea comes from the Port of Chelan and state Sen. George Sellar, R-Wenatchee, a port official hired specifically to get the navigation project built.

Sellar is convinced dredging can be accomplished without hurting the salmon. The project will supply the evidence, he says, and therefore will provide the best of all possible worlds: barging to supply competitive freight rates for central Washington and a healthy supply of fish.

Sellar is wrong.

Only fools would so experiment with the last remaning wild salmon and steelhead-trout spawneries on the Columbia River and otherwise tribe with the Hanford Reach's fragile environment. Those who do try will be wrapped up in years of lawsuits and political action.

What needs to be done is to recognize that the last free flowing stretch of the Columbia is a unique state and national treasure that should be protected under the U.S. Wild and Scenic Rivers Act, so that 100 years from now this remnant of the river will flow undredged, unbarged, undamned and beyond what is there now, undeveloped.

Mr. ADAMS. Mr. President, I join with my colleague, Senator EVANS, in introducing legislation which would designate approximately 57 miles of the Columbia River, known as Hanford Reach, as a study area for inclusion in the National Wild and Scenic Rivers System.

The Hanford Reach is the last significant free-flowing stretch of the Columbia River. Originating below the Priest Rapids Dam, it flows through and borders the U.S. Department of Energy's Hanford Reservation, much of which has been closed to public access since 1942. This protective isolation has allowed the area to retain much of its presettlement character.

Most of the Columbia River has been drastically altered by damming. The Hanford Reach is the last area still providing a natural spawning and migration area for tens of thousands of fall chinook salmon. It is also uti-

lized by migratory waterfowl as a staging and wintering area. Several candidate species for the endangered species list occur in the Hanford Reach area. Some of the few remaining archaelogical and historic sites in the basin exist along the reach. Many of these sites are sacred religious sites and burial grounds to native Americans.

The Hanford Reach has been previously threatened by water resources projects, including plans for hydropower development. Current plans call for establishment of a navigation channel. To protect its unique surroundings and status, the area is in need of immediate and permanent protection. The legislation being introduced today would designate the area for study, in anticipation of eventual inclusion in the National Wild and Scenic Rivers System. I urge my colleagues to approve this bill and thereby provide the necessary protection for this unique area of the Columbia River.

By Mr. BIDEN (for himself, Mr. PROXMIRE, and Mr. METZENBAUM):

S. 1851. A bill to implement the International Convention on the Prevention and Punishment of Genocide; to the Committee on the Judiciary.

GENOCIDE CONVENTION IMPLEMENT ACT

Mr. BIDEN. Mr. President, today I am introducing the "Genocide Convention Implementation Act of 1987." Enactment of this legislation is necessary for the United States to fulfill its international obligation to prevent and punish the crime of genocide. This bill is identical to H.R. 807 which was introduced earlier this year by House Judiciary Committee Chairman PETER RODINO.

At the end of World War II, in response to the systematic killing of 6 million Jews by the Nazis, the United Nations drafted the "Convention on the Prevention and Punishment of the Crime of Genocide." Article V of the convention requires the parties to enact legislation to give effect to its provisions and to provide penalties for persons found guilty of the enumerated crimes. Last year, after 37 years of debate and controversy, the Senate voted, 83 to 11, to approve ratification of the convention, subject to 8 provisions in the form of 2 reservations, five understandings and one declaration. The declaration provides that the President may not deposit the instrument of ratification until after the implementing language is enacted.

The Genocide Convention Implementation Act of 1987 would fulfill the U.S. obligation under article V. This bill provides protection to members of any national, ethnic, racial, or religious group by creating a new Federal crime of genocide or attempted genocide for any person who attempts to destroy such a group—in whole or in part—through murder, serious bodily injury, mental or physical torture, prevention of members of the group from having children or forcible removal of children from the control of any member of the group. Genocide or attempted genocide would be an offense punishable by imprisonment for not more than 20 years, a fine of not more than $1,000,000 or both; any offense that results in death would be punishable by imprisonment for life, a fine of not more than $1,000,000 or both. These provisions would be applicable to any national of the United States or to any offense committed within U.S. borders.

The United States has always been a leader in the international struggle for human rights. In 1948, President Truman reaffirmed the U.S. commitment to human rights by signing the Genocide Convention, and since that time, Presidents Kennedy, Johnson, Nixon, Ford, Carter, and Reagan all have supported ratification. Enactment of this legislation—and the ratification of the Genocide Convention—would signal the U.S. Government's resolve to prevent future holocausts and to advance the cause of human rights throughout the world.

I ask unanimous consent that the bill be printed in the RECORD at this time.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1851

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Genocide Convention Implementation Act of 1987".

SEC. 2. TITLE 18 AMENDMENTS.

(a) IN GENERAL.—Title 18, United States Code, is amended by inserting after chapter 50 the following:

"CHAPTER 50A—GENOCIDE

"Sec.
1091. Genocide.
1092. Definitions.

"§ 1091. Genocide

"(a) BASIC OFFENSE.—Whoever, in a circumstance described in subsection (d) of this section and with intent to destroy, in whole or in substantial part, a national, ethnic, racial, or religious group—

"(1) kills a member of that group;

"(2) causes serious bodily injury to a member of that group;

"(3) causes the permanent impairment of the mental faculties of a member of the group through drugs, torture, or similar techniques;

"(4) subjects the groups to conditions of life that are intended to cause the physical destruction of the group;

"(5) imposes measures intended to prevent births within the group; or

"(6) transfers by force a child of the group to another group;

or attempts to do so, shall be punished as provided in subsection (b) of this section.

"(b) PUNISHMENT FOR BASIC OFFENSE.—The punishment for an offense under subsection (a) of this section is—

"(1) in the case of an offense under subsection (a)(1) that results in the death of any person, a fine of not more than $1,000,000 or imprisonment for life, or both; and

"(2) a fine of not more than $1,000,000 or imprisonment for twenty years, or both, in any other case.

"(c) INCITEMENT OFFENSE.—Whoever in a circumstance described in subsection (d) of this section directly and publicly incites another to violate subsection (a) of this section shall be fined not more than $500,000 or imprisoned not more than five years, or both.

"(d) REQUIRED CIRCUMSTANCE FOR OFFENSES.—The circumstance referred to in subsections (a) and (c) of this section is that—

"(1) the offense is committed within the United States; or

"(2) the alleged offender is a national of the United States (as defined in section 101 of the Immigration and Nationality Act (8 U.S.C. 1101)).

"§ 1092. Definitions

"As used in this chapter—

"(1) the term 'child' means an individual who has not attained the age of eighteen years;

"(2) the term 'ethnic group' means a set of individuals whose identity as such as distinctive in terms of common cultural traditions or heritage;

"(3) the term 'incites' means urges another to engage imminently in conduct in circumstances under which there is a substantial likelihood of imminently causing such conduct;

"(4) the term 'national group' means a set of individuals whose identity is distinctive in terms of nationality or national origins;

"(5) the term 'racial group' means a set of individuals whose identity as such is distinctive in terms of physical characteristics or biological descent;

"(6) the term 'religious group' means a set of individuals whose identity as such is distinctive in terms of common religious creed, beliefs, doctrines, practices, or rituals; and

"(7) the term 'substantial part' means a part of a group of such numerical significance that the destruction or loss of that part would cause the destruction of the group as a viable entity within the nation of which such group is a part.".

(b) CLERICAL AMENDMENT.—The table of chapters at the beginning of part I of title 18, United States Code, is amended by inserting after the item relating to chapter 50 the following new item:

"50A. Genocide ..... 1091".

Mr. PROXMIRE. Mr. President, today we have taken the first step in completing action begun June 16, 1949, when President Harry Truman sent the Genocide Treaty to the Senate for ratification. For the next 36 years this illustrous body drug its feet on ratifying a treaty that would make it a crime under the laws of our country for a person or persons to engage in the planned, premeditated extermination of an entire ethnic, racial, or religious group.

Finally, on February 19, 1986, the vote for ratification of the Genocide Treaty was an overwhelming 82 to 11.

But, our responsibility was not finished. The ratification has no meaning without the implementation legislation. Today, Mr. President, we begin that legislative process.

I support Senator BIDEN in the introduction of the genocide implementation legislation and will work in every way possible to see the completion of Senate action.

December 9 will mark the 39th anniversary of the unanimous U.N. General Assembly adoption of the Genocide Convention. December 11 will mark the anniversary of the United States signing. And, December 10 will be International Human Rights Day. It now appears that President Reagan and General Secretary Gorbachev will be meeting in December. I am pleased that the timely introduction of this bill may serve to galvanize us as a body into action that will affirm our abhorrence of human rights violations.

Mr. METZENBAUM. Mr. President, I am pleased to be an original cosponsor of the Genocide Convention Implementation Act of 1987. This bill provides the means to carry out our decision to ratify the Genocide Convention.

The Genocide Convention was born out of a determination to prevent a repetition of the events of the Holocaust. After the war, the nations of the world banded together to define and deter the crime of genocide. On December 11, 1946, the U.N. General Assembly passed a resolution declaring genocide a crime under international law. Two years later, the General Assembly unanimously passed the Genocide Convention, and in 1949, President Truman submitted this treaty to the Congress for ratification.

In February of last year, we gave advice and consent to the ratification of this treaty by an overwhelming vote. But that vote alone is not enough.

In order to fully ratify the Genocide Convention, the Congress must pass implementing legislation. Until that point, we will only be on record as supporting the Genocide Convention, but we will not be a party to that all-important treaty; 96 nations have become parties to it.

Our closest allies—the United Kingdom, West Germany, France, Israel, to name just a few—have ratified the Genocide Convention.

But we have not.

Mr. President, there is nothing complicated about this issue.

It is very simple and straightforward.

Genocide is perhaps the most terrible crime known to mankind, and we must enact this legislation to spell out the punishment for those found guilty of commiting this heinous crime.

It is time for us to act.

I hope the Senate will move expeditiously on this measure, and I urge my colleagues to support it.

By Mr. FOWLER:

S. 1852. A bill to amend the National Security Act of 1947, and for other purposes; referred to the Select Committee on Intelligence.

INTELLIGENCE ACTIVITIES OVERSIGHT IMPROVEMENT ACT

● Mr. FOWLER. Mr. President, I rise today to introduce the Intelligence Activities Oversight Improvement Act of 1987, legislation designed to both clarify and strengthen the role of Congress in overseeing intelligence operations.

Let me make it clear at the outset that this measure is not an attempt to "get the CIA" or to impede necessary intelligence operations. As a four-term, charter member of the House Permanent Select Committee on Intelligence, I believe that a strong and effective intelligence capability is absolutely essential to our national security. Indeed, my bill aims at enhancing America's intelligence programs by rebuilding congressional and public trust in the conduct of those activities. For the greatest threat to our intelligence community, and the thousands of dedicated men and women within it, has come not from abroad, nor even from critics here at home, but rather from those in positions of authority who sought to operate a separate and secret foreign policy through the intelligence agencies and in so doing have jeopardized the bipartisan, national consensus for improved intelligence capabilities.

This is a highly appropriate time to consider questions on the proper distribution of authority in the conduct and oversight of intelligence activities, appropriate not so much because of the recent revelations of questionable and possibly illegal policies, but because we are currently celebrating the two-hundredth anniversary of that greatest of all American inventions, the U.S. Constitution. That Constitution provides for a Nation of laws, not expedients. That Constitution sets forth a system of checks and balances, not lies and evasions. That Constitution promotes sometimes untidy rights and liberties, not perfect efficiency. That Constitution is a grant of limited power to the Government from the people, not of an unlimited license for the executive branch to do as it pleases.

I would like to describe the Intelligence Activities Oversight Improvement Act by setting out first what the bill doesn't do, followed by a description of what it does provide.

The legislation I introduce today will have no effect on over 90 percent of all U.S. intelligence operations. Those programs which have clearly defined roles and which enjoy broad congressional support, including intelligence gathering and analysis, and counterespionage activities, are not covered by the bill.

Other intelligence programs which have similarly well-defined objectives and support but whose execution may involve greater risk, such as counterterrorism and antidrug trafficking efforts, would be affected only to a limited degree by the Intelligence Activities Oversight Improvement Act. Essentially, my legislation would simply codify in statute what has been executive branch practice in these areas.

With regard to the one intelligence field expressly covered by my bill, there is no prohibition on covert operations. There have been in the past, and in the dangerous world we live in no doubt will be in the future, extraordinary circumstances in which covert action is the only effective means to protect vital interests of the United States. Thus, I do not seek to abolish the covert operation option, only to improve the process by which it is undertaken.

Finally, with regard to the constitutional questions of separation of powers and the President's role in conducting foreign policy, the bill would violate neither the letter nor the spirit of current arrangements. Indeed, it is an attempt to make the present system work better. There is nothing in my bill which gives to the Congress or takes away from the President the authority to initiate and conduct intelligence operations. Under my proposal, the President would continue to have prime responsibility for making these decisions. However, the same Constitution which makes the President Commander-in-Chief gives to the Congress the power to declare war as well as the power of the purse. My legislation is thus well within Constitutional norms in its efforts to clarify the congressional role in this critical area of national policy.

In brief, the Intelligence Oversight Activities Improvement Act which I introduce today would establish statutory standards in place of Executive order requirements, and an unambiguous prior reporting system in place of disputed legal mandates, for the one category of intelligence operations which has produced controversy and conflict vastly out of proportion to its role within our intelligence agencies: the category of covert operations, or special activities in the parlance of the intelligence community.

With an inherent danger of disclosure, with a mixed record of accomplishment, and with their risk of long-term damage to the success of overt American foreign policy objectives, covert actions should not be routine. As a foreign policy tool that must necessarily remain shielded from our normal democratic processes and as a method which often has a low cost-

benefit ratio, covert action ought to be a last resort. Furthermore, experience has shown that covert operations work best when they are consistent with our publicly avowed ideals and foreign policy. It would seem only logical that neither overt nor covert policy can be successful when they are at odds with each other, and since we are governed by a democratic system now 200 years old and our overt foreign policy must be the controlling force. I used nearly identical arguments in favor of legislation similar to the bill I am introducing today 4 years ago; disclosures of the past 12 months have only served to underscore their validity.

Specificially, my legislation would require that in order for a covert activity to be initiated, the President must make a written finding that such activity is:

Essential to the national defense or foreign policy of the United States;

Consistent with, and in support of, the publicly avowed foreign policy of the United States;

Likely to produce benefits that justify the risks of its disclosure to a foreign power;

Necessary because other alternatives could not achieve the intended objectives; and

Required by circumstances that dictate the use of extraordinary means.

In addition, the written findings would have to specify what government or private entity would be conducting the covert operation, and the authorized duration—not to exceed 1 year—of the operation.

Some would say these standards are nothing more than common sense, or that we shouldn't write such binding requirements into law, or that they are unnecessary because the executive branch is now using similar safeguards anyway. In response, it could be pointed out that had such a before-the-fact written finding been required in the case of the "arms to Iran for hostages" deal, the President and the country might well have been spared the enormous damage to his personal prestige and our nation's foreign policy interests in the Middle East.

However, I do not believe that we should make policy based solely on one case. I support those standards because I believe they should be the ones the President gets answered before committing us to a covert operation. A President, any President, should not be able to undertake one of these high-risk ventures simply because he finds it easier than working through normal channels. And the time to stop a questionable covert action is before it gets started, not after we have committed human and material resources, and our Government's stamp of approval to the project.

As to the question of the adequacy of existing executive branch standards, I applaud the more rigorous evaluation of covert operations being applied by Mr. Carlucci, but I would only point out what is done by Executive order can be undone in the same way. Executive orders governing intelligence can, and in the past have been, changed by each new administration. And by the time this legislation can be considered, enacted, and implemented the Reagan administration will be history. Just as we should not base our decisions on covert policy on a single incident, so we cannot pin all our hopes for improved decisionmaking in this area on a single administration or Executive order.

The requirements for a written finding, and for specific designations of who—what agency—will be conducting the covert operation and for what period of time, will serve to improve accountability both internally within the executive branch and between the executive branch and Congress.

In addition to establishing statutory standards to guide executive branch authorization of convert activities, the Intelligence Activities Oversight Improvement Act defines and clarifies the Executive's reporting requirements to the Congress. In place of the current law provision calling on the Director of Central Intelligence to keep the House and Senate Intelligence Committees "fully and currently informed of all intelligence activities" including covert operations, a requirement whose meaning has been repeatedly disputed over the years, my bill unequivocally requires prior notification of covert operations to the two committees. In place of current law's general waiver of prior notice in extraordinary circumstances, my bill requires that such a waiver can only be granted "when time is of the essence," and furthermore, that the maximum delay in notification would be 48 hours.

Other reporting provisions: allow the President to authorize certain covert activities by category rather than individual project; require the President to provide the two intelligence committees any additional information they might request about convert operations, and retain current law language for all intelligence activities other than covert operations.

Over the years, the Congress has been extremely reluctant to get too deeply involved in reviewing intelligence activities, in part because of deference to the President as the chief architect of our foreign policy, and in part because of uneasiness about potential security breaches if too many in the Congress knew too much about intelligence programs. On this latter point, I believe that the Congress has acted responsibly, by limiting reporting requirements from the intelligence community to the two intelligence committees, and by establishing stringent security requirements within the committees. The result, in the view of most impartial observers, has been that the Congress has performed better in maintaining secrecy than has the executive branch.

On the large question of the proper role for the Congress in reviewing covert activities, I would say that the very nature of these activities, which cannot be subjected to the crucible of full public scrutiny and debate, cries out for the active involvement of the people's branch of government, the Congress, in overseeing these activities. In fact, as every living former Director of Central Intelligence has testified, such outside scrutiny by the Congress has been valuable in sharpening the internal review process within the intelligence community and the executive branch: when an outside party has oversight authority, those directly responsible for a given program are more likely to thoroughly analyze the advisability of the program than if they were not so accountable.

Other provisions of the Intelligence Activities Oversight Improvement Act: require the National Security Council [NSC] to supervise covert activities to insure that they remain consistent with the project as authorized by the President and reported to Congress; prohibit the NSC from exercising operational authority over covert operations; exempt wartime activities from the bill; and require all peacetime covert operations to be conducted in accordance with the bill.

The absence of clear and permanent standards to govern the conduct of covert activities and of a well-defined role for the Congress has been, in my opinion, detrimental to both our overt and covert foreign policies. Suspicions abroad and here at home about secret policies and hidden agendas have reduced confidence in our intelligence community, have lowered morale among our intelligence professionals, and have undermined our efforts to rebuild a strong national consensus in favor of necessary intelligence activities. One need look no further than the Iran/Contra fiasco to find evidence in support of these claims.

In introducing the Intelligence Activities Oversight Improvement Act, I hope to advance the effort to establish an bipartisan, national agreement on the conduct of covert activities. Such a consensus would confer a number of important benefits. It would provide statutory guidelines to the Congress, the administration, and the intelligence community to govern covert actions and insure that those projects with high risks to our national interests are only undertaken when absolutely essential. It would improve public confidence, and the confidence of our allies, in American foreign policy. And in the long run, by impos-

ing more exacting standards and by improving outside oversight, it would mean better policy, both overt and covert.

Mr. President, I ask unanimous consent that a summary of the bill be printed in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY

Section 1 gives the short title of the bill, the "Intelligence Activities Oversight Improvement Act."

Section 2 repeals Section 662 of the Foreign Assistance Act, which is the so-called Hughes-Ryan Amendment. This statute, which requires the President to make a finding that a "significant anticipated intelligence activity" ("other than activities intended solely for obtaining necessary intelligence") "is important to the national security of the United States" before any funds can be expended for such activity, would be supplanted by the provisions of Section 3(b)(1) of the "Intelligence Activities Oversight Improvement Act."

Section 3 amends Section 501 of the National Security Act, which is the section on congressional oversight of intelligence activities.

Subsection (a) tracks the language of Section 501(a)(1) of the National Security Act, except for striking the following: "if the President determines it is essential to limit prior notice to meet extraordinary circumstances affecting vital interests of the United States, such notice shall be limited to the chairman and ranking minority members of the intelligence committees, the Speaker and minority leader of the House of Representatives, and the majority and minority leaders of the Senate." This provision is incorporated into Section 3(b)(3) of the "Intelligence Activities Oversight Improvement Act."

Subsection (b) establishes a new system for congressional oversight of covert actions (called "special activities" in the bill). It replaces Section 501(b) of the National Security Act which states, "The President shall fully inform the intelligence committees in a timely fashion of intelligence operations in foreign countries, other than activities intended solely for obtaining necessary intelligence, for which prior notice was not given under subsection (a) and shall provide a statement of the reasons for not giving prior notice."

Paragraph (1) prohibits the initiation of any special activity "unless and until" the President has approved the activity and has made a written finding that:

"(A) such activity is essential to the national defense or the conduct of the foreign policy of the United States;

(B) such activity is consistent with, and in support of, the publicly avowed foreign policy of the United States;

(C) the anticipated benefits of such activity justify the foreseeable risks and likely consequences of its disclosure to a foreign power;

(D) overt or less sensitive alternatives would not be likely to achieve the intended objectives; and

(E) the circumstances require the use of extraordinary means."

The written finding must also designate what "department, agency, or entity of the United States, or the private entity acting on behalf of the United States" is to perform the special activity, and specify the authorized duration of the activity, which cannot exceed one year.

Paragraph (2) requires the President to submit, before a major special activity is commenced, a report to the House and Senate Intelligence Committees containing the written finding required by Paragraph (1), and a description of the nature, scope, and specific objectives of the activity.

Paragraph (3) allows the President to limit the notice required by Paragraph (2) provided the President determines that it "is essential in order to meet extraordinary circumstances affecting vital interests of the United States, and that time is of the essence in initiating the special activity." In each such case, notice would have to be given within 48 hours of the Presidential finding required by Paragraph (1) to: the chairmen and ranking minority members of the two intelligence committees, the Speaker and minority leader of the House, and the majority and minority leaders of the Senate. In addition, the President would be required to provide a statement of the reasons for not giving prior notice to the intelligence.

Paragraph (4) requires the President to provide any additional information that either intelligence committee might request about special activities reported under Paragraphs (2) and (3). Also, the National Security Council would be required to conduct ongoing supervision of each such activity and to ensure that it "remains consistent with the nature, scope, and objectives of the activity as authorized by the President."

Paragraph (5) allows the President to authorize special activities which do not or will not "involve elements of high risk, major resources, or serious political consequences" by category rather than individual project. The President is required to find "that activities falling within the category are important to the national security of the United States" and to report, before any activity within the category is commenced, to the intelligence committees, describing and justifying the category and activities within it.

Paragraph (6) requires the National Security Council to conduct ongoing supervision of each activity authorized by category under Paragraph (5) and to "ensure that each such activity remains consistent with the nature and scope of the category as authorized by the President."

Paragraph (7) requires the President to provide any additional information that either intelligence committee might request about the special activities authorized by category under Paragraph (5).

Paragraph (8) defines "special activity" in the same language used in the President's December 1, 1981 Executive Order on United States Intelligence Activities.

Paragraph (9) covers all intelligence activities abroad, other than "special activities" as defined by Paragraph (8) or "activities intended solely for obtaining necessary intelligence." It requires that before a covered activity can be initiated, the President must find that the activity is "important to the national security of the United States," and report "in a timely fashion, a description of the nature and scope of the activity to the intelligence committees." The language in this Paragraph is drawn, in part, from the current Hughes-Ryan statute which would be repealed by Section 2 of the "Intelligence Activities Oversight Improvement Act." It is an attempt to maintain current law authorization and reporting requirements for intelligence activities other than "special activities."

Paragraph (10) exempts war-time activities from the provisions of the bill.

Paragraph (11) prohibits the National Security Council from engaging in or carrying out "special activities except for the supervisory role provided for in Paragraphs (4) and (6).

[Sections 501(c),(d), and (e) of the National Security Act would not be changed by the "Intelligence Activities Oversight Improvement Act."]

Section 4 prohibits funding for any "special activity" (as defined by Section 3(b)(8)) not conducted in accordance with the provisions of Section 3 of the "Intelligence Activities Oversight Improvement Act."●

By Mr. LAUTENBERG (for himself and Mr. BRADLEY):

S. 1853. A bill to designate the facility of the U.S. Postal Service located at 850 Newark Turnpike in Kearny, NJ, as the "Dominick V. Daniels Postal Facility"; to the Committee on Governmental Affairs.

DOMINICK V. DANIELS POSTAL FACILITY

● Mr. LAUTENBERG. Mr. President, I am introducing today a bill to designate a postal service facility in Kearny, NJ, as the "Dominick V. Daniels Postal Facility," in memory of former Congressman Daniels, who died this July.

Congressman Daniels represented the 14th district of New Jersey for 18 years, from 1958 to 1976. Congressman Daniels made improved health and safety standards in the workplace his major concerns. He was successful in bringing compensation to injured workers and in creating Federal job-safety rules where States failed to provide any. Under his leadership, the principles of Federal supervision over occupational health and industrial safety were established. He was instrumental in the passage of key labor legislation, including the Comprehensive Employment and Training Act [CETA], and the Occupational Safety and Health Act [OSHA]. Congressman Daniels also was involved in efforts to see that schools and colleges strictly complied with the 1954 Supreme Court decision against racial segregation.

The voters in his district showed their appreciation by sending Congressman Daniels back to Congress every 2 years until his retirement. I hope that the Senate will act quickly to name the postal facility in Kearny for Dominick V. Daniels. This tribute is particularly fitting because Congressman Daniels was instrumental in the development of the Kearny facility.

A similar bill has been introduced in the House of Representatives by Congressman FRANK GUARINI.

Mr. President, I ask unanimous consent to place in the RECORD the New York Times, obituary for Congressman Daniels and the text of the bill.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1853

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the facility of the United States Postal Service located at 850 Newark Turnpike in Kearny, New Jersey, is hereby designated as the "Dominick V. Daniels Postal Facility". Any reference to such facility in a law, rule, map, document, record, or other paper of the United States shall be considered to be a reference to the "Dominick V. Daniels Postal Facility".

EX-REP. DOMINICK V. DANIELS; HELD JERSEY SEAT IN CONGRESS

(By Wolfgang Saxon)

Dominick Vincent Daniels, a former Representative from New Jersey who wielded much power over education and labor legislation until he retired in 1976 after 18 years in Congress, died Friday at Christ Hospital in Jersey City after a long illness. He was 78 years old and lived in Union City, N.J.

Mr. Daniel's influence stemmed from his seniority on the House Education and Labor Committee, having been assigned to it in 1959 as a freshman liberal Democrat to foil party conservatives then holding sway over it.

Over the years, he shaped bills in his fields of interest and headed some highly visible and politically weighty subcommittees. The panels dealt with subjects ranging from manpower over health and safety in the working place to postal and Federal payrolls.

Congressman Daniels championed safety standards at youth summer camps in the 1970's when New Jersey, New York and Connecticut were among only a few states that had strict regulations. He took a lead in efforts to provide for compensation of injured workers and Federal job-safety rules where states failed to enforce any.

A CLASSIC BATTLE

His efforts lead to a compromise in 1970 that, after a classic labor-industry battle established the principle of Federal supervision over occupational health and a safety in industries around the country

He was prominent in the Democratic antirecession crusades that in another compromise brought the Ford Administration in 1974 to accept a measure that called for 375,000 public sector jobs for the unemployed and provided a Federal assistance program for millions of worker otherwise not covered by unemployment compensation.

A loyal Democrat, Mr. Daniels nevertheless was outspoken in prodding the Kennedy Administration to see that schools and colleges strictly complied with the 1954 Supreme Court decison against racial segregation. He wrote a bill that in 1962 closed a loop hole though which land grant colleges could escape such compliance.

He fought to improve the lot of the handicapped, especially children and poorly paid migrant workers, and worked for programs to combat drug addiction and hard-core pornography.

When he decided in 1976 not to seek a 10th term, Hudson County Democratic leaders tried to change his mind. Mr. Daniels advised them to direct their energies at his wife, Camille. Mrs. Daniels, it seemed, had grown tired of living alone in their high-rise apartment for most of the week, prompting him to come back to Jersey City as a lawyer doing mostly trust and estate work.

He was born in Jersey City, the son of an Italian immigrant. He graduated from Fordham University, worked his way through New Jersey Law School and was admitted to the bar at age 21.

He later became Jersey City's presiding magistrate, a post he resigned to run for Congress in 1959. His constituency was the 14th District, a small, tightly built-up industrial district of mostly Italian-American and Irish American blue collar workers.

Though its boundaries kept shifting, no Republican had ever been elected in the 14th except in the Eisenhower landslide of 1956. That year, Vincent J. Dellay, a Republican, won the seat, promptly turned Democrat and chose not to run again.

Mr. Daniels trounced his opponents in every election year until his final re-election in 1974.

In addition to his wife, he is survived by two daughters, Dolores D. Maragni of North Long Branch, N.J., and Barbara D. Coleman of Avon, N.J.; five sisters, Anna Coglianese of Holmdel, N.J., Mildred Daniels of Cliffside Park, N.J., Eleanor Stutz, who lives in Louisiana, and Genevieve Daniels and Elizabeth Corrigan, both of Avon; a brother, Alfred, of Englewood Cliffs, N.J., and four grandchildren.

A funeral mass is to be held tomorrow at 10:30 A.M. at St. Joseph's Roman Catholic Church in Jersey City, preceded by a service at 9:30 at McLaughlin's funeral home at 625 Pavonia Avenue.

Daniels—Honorable Dominick V. of Union City, N.J., formerly of Jersey City (former Congressman of the 14th Congressional District of New Jersey), on July 17, 1987. Beloved husband of Camille (nee Curcio). Devoted father of Dolores Maragni of North Long Branch, and Barbara Coleman of Avon, N.J. Dear brother of Mrs. Anna Coglianese of Holmdel; Genevieve Daniels of Avon; Mrs. Elizabeth Corrigan of Avon; Mildred Daniels of Cliffside Park; Mrs. Eleanor Stutz of Louisiana; and Alfred J. Daniels of Englewood Cliffs. Also survived by four grandchildren. Relatives and friends are invited to attend funeral services on Tuesday, July 21, 1987, at 9:30 a.m. at McLaughlin Funeral Home, 625 Pavonia Avenue, Jersey City, followed by a 10:30 a.m. Mass at St. Joseph's Church. Interment, Holy Cross Cemetery. Visiting hours Monday, 2-4 and 7-9 p.m.●

By Mr. QUAYLE:

S. 1854. A bill to amend the Federal Food, Drug, and Cosmetic Act to include and regulate a polygraph as a medical device under such act, and for other purposes; to the Committee on Labor and Human Resources.

POLYGRAPH LABELING ACT

● Mr. QUAYLE. Mr. President, I rise today to introduce legislation to provide for the full disclosure of the limitations on the validity and reliability of the polygraph machine. This legislation concerns a major dilemma that is faced by millions of Americans; employers and employees, alike.

More than 2 million tests are conducted in the United States each year. Polygraph testing is in reality a very complex process that varies widely in application. Although the polygraph instrument itself is essentially the same for all applications, the purpose of the examination, type of individual tested, examiner training, setting of the examination, and type of questions asked, among other factors, can differ substantially. The instrument cannot itself detect deception and there is no known physiological response unique to lying. Therefore, polygraph tests require the examiner to develop questions to be asked in each case, compare the physiological response to the different questions, and infer deception or truthfulness based on these comparisons. Furthermore, repeated studies by government and private organizations have failed to establish the validity of polygraph testing.

Compounding the absence of scientific studies validating the accuracy of polygraph examinations in the ever-expanding record of abuse of the examination process and the test results. The polygraph has been used to inquire into the personal beliefs of employees or applicants with questions concerning religion, race, color, sex, national origin, and labor union activity.

The legislation I am introducing today does two things. First, it provides for the full disclosure of information regarding the polygraph's reliability by amending the Federal Food, Drug, and Cosmetic Act to include the polygraph as a medical device under the statute and thereby subjecting it to the act's false labeling prohibitions and penalties. With this legislation, a means can be found to inform the business or individual who purchases the device and sanctions its use, the actual operator of the device, and the subject being tested, as to the limitations of what the polygraph measures and what conclusions can be drawn from the test results.

The full disclosure provisions of this bill will mitigate the fear and intimidation that many subjects of polygraph testing feel because of their ignorance about what the polygraph actually measures. The aura of pseudoscience that surrounds the polygraph testing process convinces many subjects that the machine itself is a lie detector. By disclosing information on the polygraph's validity and reliability, much of the ignorance about the polygraph can be erased.

Second, this legislation also amends the Civil Rights Act and the National Labor Relations Act to make it unlawful for the employer to sanction polygraph testing which includes questions concerning race, color, religion, sex, national origin, or labor union activity.

Unlike other legislation now pending in Congress, this bill does not cause a further unnecessary intrusion of the Federal Government into the hiring and firing practices of private employers. The Federal Government has tra-

ditionally ventured forth into the employer's hiring and firing only to prevent discrimination, leaving the great bulk of regulation of hiring and firing to the collective-bargaining process or to regulation by the States.

It is true that employers make many mistakes in the millions of hiring and firing decisions that they make. But we need to close our eyes to reality to believe that Federal supervision of these decisions will improve their quality.

If the polygraph is unfair, what about the personality test? What about the personal reaction? The fact that there may be problems in hiring and firing decisions does not mean that a new Federal labor law is the solution. The legislation that I am introducing today uses an existing structure, that is, the Food, Drug, and Cosmetic Act and its accompanying labeling provisions, to regulate polygraph testing without expanding any other provisions of labor law.

I believe that this bill accomplishes much to provide for the regulation of polygraphs in the workplace with the least intrusion by the Federal Government. I hope my colleagues will join me in supporting this important and needed piece of legislation.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1854

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DEFINITION OF DEVICE.

Section 201(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(h)) is amended—

(1) by striking out "or" at the end of paragraph (2);

(2) by striking out "and" at the end of paragraph (3) and inserting in lieu thereof "or"; and

(3) by inserting after paragraph (3) the following new paragraph:

"(4) solely for the purposes of section 502, used, or the results of which are used, to render a diagnostic opinion concerning the honesty or veracity of a subject, and".

SEC. 2. MISBRANDED DEVICES.

Section 502 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 352) is amended by adding at the end thereof the following new subsection:

"(u) In the case of a device referred to in section 201(h)(4), if the device does not fully disclose to the purchaser, user, operator, and subject the limitations of the accuracy and reliability of the device under specified conditions of use."

SEC. 3. PROHIBITED DISCRIMINATION.

Section 704 of Title VII of the Civil Rights Act (42 U.S.C. 2000e-3) is amended by adding at the end thereof the following new subsection:

"(c) It shall be an unlawful employment practice for an employer to sanction polygraph testing procedures which include questions for an employee or an applicant for employment concerning race, color, religion, sex, or national origin."

Section 8 of the National Labor Relations Act (29 U.S.C. 158) is amended by adding at the end thereof the following new subsection:

"(8) It shall be an unfair labor practice for an employer to sanction polygraph testing procedures which include questions for an employee or applicant for employment concerning membership in or opinions concerning a labor organization."●

By Mr. STAFFORD:

S. 1855. A bill to authorize a certificate of documentation for the vessel *White Seal;* to the Committee on Commerce, Science, and Transportation.

CERTIFICATE OF DOCUMENTATION FOR THE VESSEL "WHITE SEAL"

● Mr. STAFFORD. Mr. President, today I rise to introduce a bill that would provide a basis for documenting the vessel *White Seal* for coastwise trading privileges. Under the first provision of section 27 of the Merchant Marine Act, 1920, as amended (46 App. U.S.C. 883), a vessel built in the United States which is sold foreign in whole or in part, or placed under foreign registry, forever loses its coastwise trading privileges. This first provision was added to section 27 by act of July 2, 1935 (49 Stat. 442), to protect American shipping and shipbuilding from a potential influx of renaturalized vessels that had been built in the United States and later sold to foreign owners.

Mr. President, I am offering this measure to make an exception to the prohibitions of the Jones Act for the vessel *White Seal* which is owned by Charles Langworthy, a Burlington, VT, resident. Mr. Langworthy purchased the vessel, which is an American-made cal 36 sailing sloop, with the intention of using it to carry small groups of persons daysailing out of Burlington, VT, on Lake Champlain. When Mr. Langworthy attempted to have the documentation changed from pleasure to coastwise trade he found that because it had once been owned by a Canadian couple it permanently forfeited its rights to participate in coastwise trade. Mr. Langworthy has since had to find alternative summer work.

Mr. President, Charles Langworthy is a highly qualified and experienced sailor. His Coast Guard license (3230125) allows him to carry up to six passengers for hire on all inland waters. This Senator believes he should be allowed to do just that. Burlington, VT, would only benefit from having the *White Seal* provide daysails on beautiful Lake Champlain.●

Mr. SASSER (for himself, Mr. HEINZ, Mr. GLENN, and Mr. HATFIELD):

S. 1856. A bill to amend chapter 25 of title 44, United States Code, to provide an authorization for the National Historical Publications and Records Commission programs, and for other purposes; referred to the Committee on Governmental Affairs.

NATIONAL HISTORICAL PUBLICATIONS AND RECORDS COMMISSION AMENDMENT ACT

● Mr. SASSER. Mr. President, today, I am joined by Senator JOHN HEINZ in introducing a bill to reauthorize the National Historical Publications and Records Commission [NHPRC] for fiscal years 1989 through 1993. I am pleased to have as cosponsors Senator JOHN GLENN, chairman of the Committee on Governmental Affairs, and Senator MARK HATFIELD, the appointed Senate member of the NHPRC.

The NHPRC, a part of the National Archives, plays a vital role in preservation, documentation, and publication of our Nation's important historical papers. Through its publications program, the Commission provides to the American public documentary editions, free from partisan interpretation, concerning the Founding Fathers and the creation of the Government: such as the papers of Thomas Jefferson, the First Federal Congress, and the early years of the Supreme Court. Their editions have gone beyond the Government to cover military affairs, social concerns, labor, and the arts and the sciences.

Through its records program the NHPRC provides support to State and local historical societies, archives libraries and associations to ensure the discovery and preservation of valuable historical documents, especially those in imminent danger of destruction.

In Tennessee, as in other States, the NHPRC has funded valuable publications programs, such as grants to the University of Tennessee for the "Papers of Andrew Jackson" and the "Papers of Andrew Johnson," as well as to Vanderbilt University for the "Correspondence of James K. Polk." In Pennsylvania, grants have been awarded to Penn State University for the "Papers of Martin Van Buren" and to the Pennsylvania Historical Record Advisory Board for a comprehensive study of institutional archives for college and university records.

The NHPRC has recognized that the tasks facing archival institutions, manuscripts repositories and researchers demand far more than the efforts of a single Federal agency. The Commission has favored projects which show financial commitment from a number of sources, and the Commission's funds represent less than half of all moneys used by these record projects.

The Commission's grants are not intended to replace the support of other Federal, State, and local agencies, nonprofit institutions and organizations; nor have they. Rather, they have supplemented and expanded programs throughout the country and stimulated private giving.

Mr. President, the celebration this year of the bicentennial of the U.S. Constitution gives us pause to reflect upon our heritage and the importance of this Nation's historical documents. We must begin to share a greater appreciation of the profound importance of preserving and making available for study the records illustrating that history—from the Constitution itself to the papers of individuals and institutions whose written record reveal our past.

In fiscal year 1986, although receiving grants requests exceeding $6.4 million, the Commission made 58 grants totaling $2 million in support of archival programs across the country. In many States, historical records preservation plans have been tabled until moneys can be found; the records, meanwhile, further deteriorate. Valuable historical photograph collections go unprocessed. Studies documenting the needs for better city and State records management programs are often carelessly filed away.

Rather than eliminate funding for the NHPRC as the Office of Management and Budget has previously recommended, I am joined by Senator HEINZ and other distinguished cosponsors in recommending an authorization of $10 million for each fiscal year between 1989 and 1993. Without question, every penny spent will yield a valuable net return on our investment.

The worthiness of preserving our Nation's records is as tantamount today as it was 200 years ago. Recognizing this need, it was Thomas Jefferson who stated in 1791:

> Time and accident are committing daily havoc on the originals of the valuable historical and State papers deposited in our public offices. The late war has done the work of centuries in this business. The last cannot be recovered, but let us save what remains; not by vaults and locks which fence them from the public eye and use in consigning them to the waste of time, but by such a multiplication of copies, as shall place them beyond the reach of accident.●

By Mr. DIXON:

S.J. Res. 212. Joint resolution to designate the period commencing May 8, 1988, and ending on May 14, 1988, as "National Tuberous Sclerosis Awareness Week"; to the Committee on the Judiciary.

NATIONAL TUBEROUS SCLEROSIS AWARENESS WEEK

Mr. DIXON. Mr. President, I am introducing today a joint resolution to designate the week beginning May 8, 1988, as "National Tuberous Sclerosis Awareness Week."

Tuberous sclerosis [TS] is a genetic disorder which affects as many as 1 in 10,000 Americans. Its characteristics include skin markings, seizures, motor difficulties, mental retardation, tumors of the brain and other organs, and behavioral abnormalities.

Individuals with TS may live a completely normal and productive life and may be unaware of the disease. However, in the more severe forms of TS, the disabilities may be serious, and premature death may occur as a result of seizures, tumors, or infections.

Although TS is one of the more common genetic disorders, it remains poorly understood and frequently misdiagnosed.

I am introducing the resolution because of the need to heighten public awareness of TS, and to stimulate further TS research.

Mr. President, I ask unanimous consent that the joint resolution be printed in the RECORD, and I urge my colleagues to join me in its prompt approval.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 212

Whereas tuberous sclerosis (hereinafter referred to in this resolution as "TS") is a genetic disorder affecting as many as 1 in 10,000 Americans;

Whereas TS remains poorly understood and frequently misdiagnosed, even though it is one of the more common genetic disorders;

Whereas TS affects males and females of all races;

Whereas the characteristics of TS include skin markings, seizures, motor difficulties, mental retardation, tumors of the brain and other organs, and behavioral abnormalities;

Whereas in any individual, the disease's severity can range from being mild, when patients can live normal lives, to being extreme, when TS is disabling and may be life threatening;

Whereas although modern research technology has provided information about TS, there remains much to be learned;

Whereas only with continued, extensive research is there any chance of conquering TS; and

Whereas establishing a national TS awareness week would serve to enhance public awareness of TS and stimulate further TS research: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the period commencing May 8, 1988, and ending on May 14, 1988, is designated a "National Tuberous Sclerosis Awareness Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the week with appropriate programs, ceremonies, and activities.

By Mr. ADAMS (for himself, Mr. CRANSTON, Mr. WEICKER, Mr. BUMPERS, Mr. MATSUNAGA, and Mr. PROXMIRE):

S.J. Res. 213. Joint resolution providing specific authorization under the War Powers Resolution for the continued use of U.S. Armed Forces in the Persian Gulf, consistent with the foreign policy objectives and national security interests of the United States; to the Committees on Armed Services and Foreign Relations.

PERSIAN GULF NAVIGATION PROTECTION ACT

Mr. ADAMS. Mr. President, today I am introducing a joint resolution under the War Powers Resolution which provides specific authorization for the continued use of U.S. Armed Forces in the Persian Gulf. I am pleased to be joined in this effort by Senators CRANSTON, WEICKER, BUMPERS, MATSUNAGA, and PROXMIRE.

Over the past several months, we have had a long debate in the Senate over whether or not to invoke the War Powers Resolution. While that debate has, at times, been useful, it has also obscured the central issue before us. Invoking the War Powers Resolution was never an end in and of itself; rather it was a means to get to the point where we could develop a consensus for a policy in the Persian Gulf. Those of us who sought to invoke the War Powers Resolution hoped that once the procedures established by that resolution were in effect, the Congress and the administration could work together to develop a coherent policy.

Obviously we were not able to invoke the War Powers Resolution. But after a lengthy debate, we did pass the Byrd-Warner amendment. While the Byrd-Warner amendment sets forth a procedure for obtaining and acting on a report from the President on the situation in the Persian Gulf, it leaves unaddressed the constitutional duty of the Congress, as prescribed under the War Powers Resolution, to participate in developing policy toward the Persian Gulf given the present hostilities in the region.

The War Powers Resolution is the law. This Senator believes that we must be a nation of laws and not of men. Section 4(a)(1) of the War Powers Resolution states:

> In the absence of a declaration of war, in any case in which United States Armed Forces are introduced into hostilities or into situations where imminent involvement in hostilities is clearly indicted by the circumstances; the President shall submit within 48 hours to the Speaker of the House of Representatives and to the President pro tempore of the Senate a report, in writing, setting forth (A) the circumstances necessitating the introduction of United States Armed Forces; (B) the constitutional and legislative authority under which such introduction took place; and (C) the estimated scope and duration of the hostilities or involvement.

The language of the War Powers Resolution is clear enough. Looking back at the events in the Persian Gulf since July when the United States began to escort reflagged Kuwaiti tankers through the gulf, one must conclude that "imminent involvement in hostilities" in the Persian Gulf by U.S. forces is "clearly indicated by the circumstances." In fact, we have seen a steady stream of such hostilities since the President made the decision

to escalate our involvement in the Persian Gulf.

The War Powers Resolution, the law of the land which we are sworn to uphold, also states in section 5(b) that:

* * * within sixty calendar days after a report is submitted or is required to be submitted pursuant to section 4(a)(1), which ever is earlier, the President shall terminate any use of United States Armed Forces with respect to which such report was submitted or required to be submitted, unless the Congress (1) has declared war or has enacted a specific authorization for such use of United States Armed Forces, (2) has extended by law such sixty day period, or (3) is physically unable to meet as result of an armed attack upon the United States.

Again the law is clear. Although the President has chosen to ignore the law and has not submitted a report to the Congress pursuant to the War Powers Resolution, the hostilities and circumstances in the Persian Gulf clearly require that he should have done so. Therefore, unless Congress acts under the War Powers Resolution to authorize our involvement in the Persian Gulf, the President is bound by law to terminate the operation.

I don't believe that the United States should withdraw from the Persian Gulf. We have maintained a prescence in the gulf since 1949 because we have substantial national security interests in the gulf. But, we have more than tripled our presence in the gulf since the President began the Kuwaiti reflagging operation, and our forces are now involved in hostilities. As required under the War Powers Resolution, it is time to spell out our policy and unite the country behind it.

The resolution we are introducing today addresses that policy. It specifically authorizes the continued use of U.S. Armed Forces in the Persian Gulf to achieve our foreign policy objectives and protect our national security interests. It sets forth our policy objectives in the gulf in ways which are perfectly consistent with the latest administration articulation of those objectives.

This resolution should stop all criticism by those who believe that abiding by the War Powers Resolution is the same as advocating that we cut and run from the gulf. Section 7(2) of the resolution specifically states that:

* * * nothing in this joint resolution requires the President to totally withdraw United States Armed Forces from the Persian Gulf if such forces are not used in connection with the escorting or convoying of vessels reregistered under the United States flag.

While this resolution supports the presence of American forces in the gulf, it does place certain restrictions on the President's authority in conjunction with both the reflagging operation and in connection with the initiation of offensive hostile acts by the United States in the region.

In terms of reflagging, this joint resolution authorizes a continuation of that operation for only an additional 6 months, at which point the President must terminate it unless its continuation is specifically authorized by the Congress. Many of us expressed serious reservations about the reflagging operation from the outset and foretold the consequences. Many of us wish the President had consulted adequately with the Congress prior to making such a far-reaching international commitment. But the commitment now made, it is important that we make sure it is not an open-ended commitment for two reasons. First, the reflagging has clearly placed the United States forces in a position of assisting Kuwait to secure her oil revenues, a portion of which are being used to finance the Iraqi war effort against Iran. This has compromised our neutral position toward the Iran-Iraq war. Second, this is an expensive commitment which could cost us as much as $350 million a year from new appropriations or drawing from our resources elsewhere in the world.

Under this resolution, the President has 6 months to continue this reflagging operation. During that period, all possible efforts should be made to end the Iran-Iraq war and, short of that, to coordinate a multilateral peacekeeping force to conduct the escorting and conveying function. Also during that period, we can work with our allies in the region to develop some alternatives to reflagging or to obtain a united operation as suggested by former Secretary of State Cyrus Vance and former Secretary of Defense Elliot Richardson. In the final analysis, if alternatives are not viable, Congress can consider voting to continue the reflagging operation for another 6 months.

This resolution places one other restriction on our activities in the Persian Gulf. It requires the President to consult with the Congress before using U.S. Armed Forces in hostilities other than those necessary to repel attacks against our Armed Forces or U.S.-flag vessels. In other words, if the President feels it is appropriate to initiate any offensive hostile action, as he did when we bombed the Iranian oil platforms recently, he is required to consult with the Congress prior to a decision to initiate such offensive actions.

It is important that we debate this policy. There may not be a consensus for the specific provisions of the resolution my colleagues and I are introducing today. But if there isn't, then that is not an indication of failure—it is simply a sign of our need to use the mechanisms available to debate the issue and develop a consensus. American lives are at stake and we must exercise our responsibility to articulate a sensible policy in the complicated Persian Gulf situation. Some may be inclined to wait until we see if the Byrd-Warner amendment becomes law and we recieve a report. The problem is that amendment has not yet passed the House and it has not been signed by the President. It could easily be another year before that process competes itself, if it ever does.

In the meantime, with each day that passes we are not meeting our responsibilities under the law to address this issue. During the debate on the Byrd-Warner amendment, the authors repeatedly stated that their amendment in no way altered or modified the provisions of the War Powers Resolution. Given that legislative intent, this Senator believes that we have no choice but to proceed to the consideration of a joint resolution as required under the War Powers Resolution.

It is important to recognize that precedent exists for this action. Although the President refused to invoke the War Powers Resolution in 1983 in relation to the participation of the United States Armed Forces in the multinational force in Lebanon, the Congress proceeded to consider and enact into law a joint resolution under the procedures contained in the War Powers Resolution.

With the introduction of this resolution today, we are triggering the expedited procedures contained in that act. By doing so, as the authors of the War Powers Resolution intended, we will ensure a timely debate over our policy options in the Persian Gulf. This is critical to our ability to protect our interests in the Persian Gulf region and our ability to protect the 25,000 men who have been sent to the gulf to pursue a policy which has yet to be well defined. Through our consideration of this resolution and forthcoming debate on our policy options, we have an opportunity to unite the country behind our future actions in the gulf.

I look forward to the debate on this resolution, both within the Foreign Relations Committee, and on the floor of the Senate. I have set forth what I believe to be a sensible policy toward the gulf. By introducing this resolution, I am fullfilling what I believe to be my responsibility as a U.S. Senator under the law of our land.

The real significance of this action today is that it provides us with a timely mechanism to develop a national consensus around our policy. Therefore, I expect and look forward to discussions with both those who will criticize the elements of this resolution and with those who will be inclined to support it. It is only through such a debate and action that we can ensure that we are pursuing a policy in the Persian Gulf which is both in our national interest and which has the solid support of the American people.

Mr. President, I ask unanimous consent that the joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 213

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This joint resolution may be cited as the "Persian Gulf Navigation Protection Act of 1987".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) keeping the Persian Gulf sea lanes open to international commerce is critical to the national security of the United States;

(2) beginning in July 1987 the United States Armed Forces began the convoying or escorting in the Persian Gulf of vessels formerly owned by Kuwait or Kuwaiti nationals which had been reregistered under the flag of the United States;

(3) on October 19, 1987, United States Armed Forces fired upon and destroyed an armed Iranian platform in the Persian Gulf in retaliation for an Iranian missile attack on October 15, 1987, against a United States-flag tanker;

(4) the War Powers Resolution requires that United States Armed Forces may not be introduced into hostilities or into situations in which imminent involvement in hostilities is clearly indicated by the circumstances for longer than the 60-day period described in section 5(b) of such Resolution without the specific authorization of Congress, a declaration of war, or other extenuating circumstances; and

(5) the United States must continue to maintain a military presence in the Persian Gulf to protect United States national security interests.

(b) DECLARATION.—The Congress declares that the requirements of section 4(a)(1) of the War Powers Resolution became operative on October 19, 1987.

(c) PURPOSES.—The purposes of this joint resolution are—

(1) to provide specific authorization under section 5(b) of the War Powers Resolution for the continued deployment of United States Armed Forces in the Persian Gulf to achieve United States foreign policy objectives and to protect United States security interests; and

(2) to clarify United States goals and policy toward the continued deployment of United States armed forces in the Persian Gulf.

SEC. 3. STATEMENT OF POLICY IN THE PERSIAN GULF.

It shall be the United States policy in the Persian Gulf—

(1) to keep the sea lanes open to international commerce;

(2) to remain neutral in the war between Iran and Iraq and to seek a just end to that conflict;

(3) to preserve the integrity of other nonbelligerent countries bordering the Persian Gulf;

(4) to prevent a strategic gain by the Soviet Union in the region;

(5) to urge United States allies, whether within or outside the Persian Gulf region, to participate more fully in sharing the burden of achieving and preserving peace in the Persian Gulf region;

(6) to defend United States Armed Forces against aggression by any country bordering the Persian Gulf which threatens the peaceful United States presence in the Gulf and the policy set forth in this section; and

(7) to pursue efforts through the United Nations to implement a cease-fire in the war between Iraq and Iran and other actions which will contribute to a lessening of hostilities in the Persian Gulf.

SEC. 4. SPECIFIC AUTHORIZATION FOR CONTINUED DEPLOYMENT OF UNITED STATES ARMED FORCES IN THE PERSIAN GULF.

The President is specifically authorized, for purposes of section 5(b) of the War Powers Resolution, to continue to deploy United States Armed Forces in the Persian Gulf, subject to the restrictions of section 5 of this joint resolution.

SEC. 5. RESTRICTIONS ON PRESIDENTIAL AUTHORITY.

The restrictions referred to in section 4 are as follows:

(1) Notwithstanding any other provision of law, on or after the date of enactment of this joint resolution no vessel owned by a government or national of a country bordering the Persian Gulf may be reregistered under the flag of the United States, except that any such vessel first so reregistered before such date may continue to be so reregistered.

(2)(A) On and after the date of enactment of this joint resolution, the use of United States Armed Forces to convoy or escort vessels owned by any government or national of a country bordering the Persian Gulf as of June 1, 1987, may continue—

(i) only if the government of such country agrees to reimburse the United States for the costs incurred in such use of the United States Armed Forces; and

(ii) only until the date which is 6 months after the date of enactment of this joint resolution, except that such date may be extended by additional periods of 6 months if for each such period the Congress enacts, in accordance with subparagraph (B), a joint resolution authorizing the use of United States Armed Forces for such period of time for the purposes authorized by this joint resolution.

(B) A joint resolution described in subparagraph (A)(ii) shall be considered in the House of Representatives and in the Senate in accordance with the procedures applicable to joint resolutions under paragraphs (3) through (7) of section 8066(c) of the Department of Defense Appropriations Act, 1985 (as contained in Public Law 98-473), except that references in such paragraphs to the Committee on Appropriations shall be deemed to be references in the House of Representatives to the Committee on Foreign Affairs and in the Senate to the Committee on Foreign Relations.

(3) The President shall consult with the Congress before using United States Armed Forces in hostilities under this joint resolution (other than actions necessary to repel attacks against United States Armed Forces or United States-flag vessels).

SEC. 6. REPORTING REQUIREMENT.

In addition to the reports required by section 4(c) of the War Powers Resolution, beginning 30 days after the date of enactment of this Act, and every 30 days thereafter, the President shall prepare and transmit to the Speaker of the House of Representatives and the President pro tempore of the Senate a report on the progress made in implementing the policy set forth in this joint resolution.

SEC. 7. INTERPRETATION OF THIS JOINT RESOLUTION.

(a) APPLICATION OF PRESIDENTIAL AUTHORITY.—(1) Nothing in this joint resolution shall preclude the President from withdrawing United States Armed Forces from the Persian Gulf if circumstances warrant their withdrawal.

(2) Nothing in this joint resolution requires the President totally to withdraw United States Armed Forces from the Persian Gulf if such Forces are not used in connection with the escorting or convoying of vessels reregistered under the United States flag.

(b) APPLICATION OF THE WAR POWERS RESOLUTION.—Nothing in this joint resolution shall have the effect of modifying, limiting, or superseding any provision of the War Powers Resolution.

By Mr. LAUTENBERG (for himself, Mr. DANFORTH, Mr. HOLLINGS, and Mr. GORE):

S.J. Res. 214. Joint resolution to designate the week of February 7-13, 1988, as "National Child Passenger Safety Awareness Week"; referred to the Committee on the Judiciary.

NATIONAL CHILD PASSENGER SAFETY AWARENESS WEEK

● Mr. LAUTENBERG. Mr. President, today I am introducing legislation to designate the week of February 7-13, 1988 as "National Child Passenger Safety Awareness Week." I am pleased to be joined in introducing this resolution by Senators HOLLINGS, DANFORTH, and GORE.

Since coming to the Senate, I have worked to improve safety on our roads and highways. Over the last several years, tremendous progress has been made. Promising airbag technology continues to improve. Legislation I authored to raise the minimum drinking age was passed, and that law has resulted in tangible savings of lives. With full compliance with the law, we can expect to save upwards of a thousand young lives a year.

Mr. President, we're saving hundreds of teenage lives a year. But there's another group we need to look after—the small children riding as passengers in our cars.

Motor vehicle crashes are the leading cause of the death and crippling of children over the age of 6 months in the United States. More children under the age of 5 are killed or crippled as a result of motor vehicle crashes than the total number of children killed or crippled by the seven most common childhood diseases. Between 1978 and 1986, nearly 9,300 children under the age of 5 were killed, and more than 450,000 children were injured, as a result of traffic crashes.

Children can be highly vulnerable as motor vehicle passengers, much more so than adults. For example, an unrestrained child is less protected by padding and energy-absorbing materials than an adult in a motor vehicle crash because protective devices are placed in areas more likely to benefit adults.

In addition, because their bodies are less developed and provide less protection, unrestrained children are subject to a significantly higher risk of serious head, spine, chest and abdominal injury in motor vehicle crashes than older passengers.

The death of any child is a tragedy. But what is so tragic about the deaths and injuries of children involved in motor vehicles accidents, is that they are so often preventable if simple precautions are taken. Research shows that the correct use of child passenger protection devices is over 70 percent effective in preventing death and 67 percent effective in preventing injury in motor vehicle crashes.

However, despite the fact that all 50 States and the District of Columbia have laws mandating the use of child passenger protection systems, the latest national surveys show that only 72 percent of children under 5 are placed in child safety seats, and that one-third of such seats are used incorrectly. That means that only 48 percent of children under the age of 5 are fully protected in cars through the proper usage of child safety seats.

Mr. President, our children are our future. It's our responsibility to protect them. We need to educate the public about the serious dangers children can face as automobile passengers and the importance of child safety protection devices and their correct use. It is my hope that "National Child Passenger Safety Awareness Week" will help focus the Nation's attention on the passenger safety of children and help promote the universal and correct usage of child passenger protection devices.

I urge my colleagues to join me in sponsoring this resolution. I ask unanimous consent that the text of the joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 214

Whereas motor vehicle crashes are the number one cause of death of children over the age of six months in the United States;

Whereas motor vehicle crashes are the number one cause of the crippling of children in the United States;

Whereas more children under the age of five years are killed or crippled as passengers involved in motor vehicle crashes than the total number of children killed or crippled by the seven most common childhood diseases: pertussis, tetanus, diphtheria, measles, mumps, rubella, and polio;

Whereas motor vehicle crashes are the leading trauma related cause of spinal cord injuries, epilepsy, and mental retardation in the United States;

Whereas between the years 1978 and 1987 nearly nine thousand three hundred children under the age of five years were killed in traffic crashes, and more than four hundred and fifty thousand children were injured in the United States;

Whereas an unrestrained child is less protected by padding and energy-absorbing materials than an adult in a motor vehicle crash, because protective devices are placed in areas more likely to benefit adults;

Whereas unrestrained children are subject to a significantly higher risk of serious head, spine, chest and abdominal injury in motor vehicle crashes than older passengers because the bodies of children are less developed and provide less protection;

Whereas an unrestrained child in a motor vehicle crash faces an increased danger of fatal or serious injury from ejection as well as injuries resulting from contact with the vehicle interior;

Whereas an unrestrained child in a motor vehicle not involved in a collision may be killed or injured as a result of sudden stops, turns, swerves, or from the unrestrained child falling from a moving vehicle.

Whereas all fifty states and the District of Columbia have enacted laws mandating the use of child passenger protection systems;

Whereas the latest national surveys show that 72 percent of children under the age of five are placed in child safety seats in the United States and that one-third of such seats are used incorrectly;

Whereas current nationwide studies estimate that only 48 percent of children under the age of five are fully protected in cars in the United States through the correct usage of child safety seats;

Whereas numerous government and private sector organizations have agreed to work in concert to achieve a minimum 70 percent correct usage of child passenger protection devices and adult safety belts by the year 1990;

Whereas research shows that the correct use of child passenger protection devices is over 70 percent effective in preventing death and 67 percent effective in preventing injury;

Whereas death and injuries may be reduced significantly through greater public awareness, information, education, and enforcement: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That February 7-13, 1988 is designated as "National Child Passenger Safety Awareness Week" and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that week with appropriate programs, ceremonies and activities to maximize correct usage of child safety seats.●

● Mr. DANFORTH. Mr. President, I am pleased to join with Senator LAUTENBERG in introducing a resolution on designating February 7-13, 1988, as "National Child Passenger Safety Awareness Week." This resolution is designed to promote the proper use of child care seats.

Mr. President, I have long been a believer in the value of child safety seats. In 1984, I joined with Senator LAUTENBERG in the successful effort to pass legislation authorizing Federal highway safety grants for the development and implementation of State programs concerning the use of child safety seats.0

Child car seat laws are in effect in all 50 States. The child safety seat law in my home State of Missouri is representative of these life saving measures. It requires that children under 4 years of age be protected by an approved safety seat if they are riding in the front seat. Young children in the rear seat must be restrained with a seat or a standard belt. An infraction carriers a $25 fine.

These laws and public education have greatly increased child safety seat use. The National Highway Traffic Safety Administration reports that between 1981 and 1986, safety seat use rose from 23 to 72 percent. These laws are critical to the protection of our children. A 1986 Department of Transportation [DOT] study estimated that when correctly used, child car seats can greatly reduce deaths and injuries. A child that is in a car seat can survive 71 percent of the serious accidents that would be fatal to an unrestrained child. A child care seat can prevent 67 percent of the hospitalizations that unrestrained children suffer in serious accidents.

The same 1986 DOT study points out an area in which our efforts in the child safety seat area can improve—proper usage. Specifically, DOT found that 21 percent of seats are grossly misused—that is, where either the child is not restrained in the child car seat, the seat is not anchored to the vehicle, or an unsuitable seat is used—and 40 percent of the seats are partially misused—that is, where some elements of the child car seat are not used properly but the child is somehow held in the seat and the seat is anchored to the vehicle in some manner. Grossly misused seats were found to be of little or no value in reducing death and injury. Partially misused seats are only 44 percent effective in reducing fatalities and 48 percent effective in reducing hospitalizations.

Mr. President, parents obviously want to protect their children. A national awareness week on child safety will help parents protect their children by informing them about the proper use of child safety seats.

Mr. President, I urge all my colleagues to support the designation of February 7-13, 1988, as "National Child Passenger Safety Awareness Week." If we can increase proper use of child safety seats, we will save a lot of children from needless death and injury.●

ADDITIONAL COSPONSORS

S. 123

At the request of Mr. INOUYE, the name of the Senator from New Jersey [Mr. LAUTENBERG] was added as a cosponsor of S. 123, a bill to amend title XVIII of the Social Security Act to provide that psychologist services are covered under part B of Medicare.

S. 714

At the request of Mr. SPECTER, the name of the Senator from New Jersey [Mr. BRADLEY] was added as a cospon-

sor of S. 714, a bill to recognize the organization known as the Montford Point Marine Association, Inc.

S. 824

At the request of Mr. SPECTER, the name of the Senator from South Dakota [Mr. DASCHLE] was added as a cosponsor of S. 824, a bill to establish clearly a Federal right of action by aliens and U.S. citizens against persons engaging in torture or extrajudicial killing, and for other purposes.

S. 951

At the request of Mr. HEFLIN, the name of the Senator from Pennsylvania [Mr. SPECTER] was added as a cosponsor of S. 951, a bill entitled the "Federal Courts Study Act."

S. 998

At the request of Mr. DECONCINI, the name of the Senator from New York [Mr. MOYNIHAN] was added as a cosponsor of S. 998, a bill entitled the "Micro Enterprise Loans for the Poor Act."

S. 1109

At the request of Mr. HARKIN, the name of the Senator from South Dakota [Mr. DASCHLE] was added as a cosponsor of S. 1109, a bill to amend the Federal Food, Drug, and Cosmetic Act to require certain labeling of foods which contain tropical fats.

S. 1203

At the request of Mr. GRASSLEY, the name of the Senator from Maryland [Mr. SARBANES] was added as a cosponsor of S. 1203, a bill to amend title 22, United States Code, to make unlawful the establishment or maintenance within the United States of an office of the Palestine Liberation Organization, and for other purposes.

S. 1440

At the request of Mr. EVANS, the name of the Senator from Massachusetts [Mr. KENNEDY] was added as a cosponsor of S. 1440, a bill to provide consistency in the treatment of quality control review procedures and standards in the Aid to Families with Dependent Children, Medicaid, and Food Stamp Programs; to impose a temporary moratorium for the collection of penalties under such programs, and for other purposes.

S. 1489

At the request of Mr. MOYNIHAN, the names of the Senator from North Carolina [Mr. SANFORD] and the Senator from Mississippi [Mr. COCHRAN] were added as cosponsors of S. 1489, a bill to amend section 67 of the Internal Revenue Code of 1986 to exempt certain publicly offered regulated investment companies from the disallowance of indirect deductions through passthrough entities.

S. 1539

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of S. 1539, a bill to amend the Federal Railroad Safety Act and for other purposes.

S. 1678

At the request of Mr. HATCH, the name of the Senator from Wisconsin [Mr. KASTEN] was added as a cosponsor of S. 1678, a bill to establish a block grant program for child care services, and for other purposes.

S. 1679

At the request of Mr. HATCH, the name of the Senator from Wisconsin [Mr. KASTEN] was added as a cosponsor of S. 1679, a bill to establish a block grant program for child care services, and for other purposes.

S. 1697

At the request of Mr. HARKIN, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 1697, a bill to provide for the registration of foreign interests in U.S. property.

S. 1709

At the request of Mr. KASTEN, the name of the Senator from Minnesota [Mr. BOSCHWITZ] was added as a cosponsor of S. 1709, a bill to amend the Internal Revenue Code of 1986 and the Congressional Budget and Impoundment Control Act of 1974 to improve the tax policy process, provide more accurate information to the Congress and the executive branch, and to provide for improved measurement of tax expenditures.

S. 1789

At the request of Mr. KASTEN, the name of the Senator from Minnesota [Mr. BOSCHWITZ] was added as a cosponsor of S. 1789, a bill to amend the Internal Revenue Code of 1986 to reduce the rate of tax on long-term capital gains of individuals from 28 to 15 percent.

SENATE JOINT RESOLUTION 181

At the request of Mr. WILSON, the names of the Senator from Idaho [Mr. SYMMS], and the Senator from Wyoming [Mr. WALLOP] were added as cosponsors of Senate Joint Resolution 181, a joint resolution designating the week beginning February 1, 1988, as "National VITA Week."

SENATE JOINT RESOLUTION 203

At the request of Mr. D'AMATO, the names of the Senator from Michigan [Mr. LEVIN], the Senator from Connecticut [Mr. DODD], the Senator from Illinois [Mr. SIMON], the Senator from New Jersey [Mr. BRADLEY], the Senator from Vermont [Mr. LEAHY], the Senator from North Dakota [Mr. CONRAD], the Senator from Colorado [Mr. ARMSTRONG], the Senator from Tennessee [Mr. GORE], the Senator from Michigan [Mr. RIEGLE], the Senator from Oklahoma [Mr. NICKLES], the Senator from New York [Mr. MOYNIHAN], and the Senator from New Jersey [Mr. LAUTENBERG] were added as cosponsors of Senate Joint Resolution 203, a joint resolution calling upon the Soviet Union immediately to grant permission to emigrate to all those who wish to join spouses in the United States.

SENATE CONCURRENT RESOLUTION 43

At the request of Mr. STEVENS, the names of the Senator from Georgia [Mr. FOWLER], and the Senator from Minnesota [Mr. BOSCHWITZ] were added as cosponsors of Senate Concurrent Resolution 43, a concurrent resolution to encourage State and local governments and local educational agencies to provide quality daily physical education programs for all children from kindergarten through grade 12.

At the request of Mr. D'AMATO, his name was added as a cosponsor of Senate Concurrent Resolution 43, supra.

SENATE CONCURRENT RESOLUTION 87—RELATING TO DEMONSTRATIONS IN LATVIA COMMEMORATING LATVIAN INDEPENDENCE DAY

Mr. RIEGLE (for himself, Mr. DOLE, Mr. BYRD, Mr. BUMPERS, Mr. LAUTENBERG, Mr. SARBANES, Mr. MOYNIHAN, Mr. SIMON, Mr. GLENN, Mr. DECONCINI, Mr. DURENBERGER, Mr. LEAHY, Mr. LEVIN, Mr. PROXMIRE, Mr. PRYOR, Mr. PRESSLER, Mr. MURKOWSKI, Mr. DIXON, Mr. BURDICK, and Mr. KASTEN submitted the following concurrent resolution; which was placed on the calendar by unanimous consent:

S. CON. RES. 87

Whereas The United States, since its inception, has been committed to the principle of self determination;

Whereas this essential moral principle is also affirmed in the Charter of the United Nations;

Whereas the Union of Soviet Socialist Republics is, according to its constitution, a voluntary federation of autonomous republics;

Whereas the Republic of Latvia did not become a member republic of the Union of Soviet Socialist Republics voluntarily, but rather was occupied militarily by the Soviet armed forces in the early days of World War II and subsequently incorporated by force into the Union of Soviet Socialist Republics, and has since been governed by a government approved by, and subservient to, the Government of the Union of Soviet Socialist Republics;

Whereas the United States has consistently refused to recognize the unlawful Soviet occupation of Latvia and continues to recognize the diplomatic representatives of the last independent government of the Republic of Latvia;

Whereas November 18, 1987, marks the 69th anniversary of the founding of the independent Republic of Lativa;

Whereas the United States Government has traditionally recognized November 18th as Latvian Independence Day, and the Congress has passed resolutions calling for special commemoration of that date;

Whereas November 18, 1987, also marks the 52nd anniversary of the dedication of the Latvian Monument of Freedom, completed in Riga, Latvia in 1935, to honor the Latvian people and their nation;

Whereas since the Soviet occupation of Latvia, the people of Latvia have been prevented from publicly commemorating this important day in their national history;

Whereas a peaceful noncommunist demonstration was allowed to occur on June 14, 1987, as 5000 Latvian people gathered in Riga to honor the victims of Soviet deportations which occurred between 1940 and 1949;

Whereas credible western news sources have indicated that Latvian citizens are planning to hold their third mass demonstration of the year on November 18 at the Latvian Monument of Freedom in downtown Riga;

Whereas Anatolijs Gorbunovs, Secretary of the Latvian Communist Party Central Committee, has stated that participation in such a demonstration in Riga on November 18 will be construed as an anti-Soviet act; and

Wheras A. Drizulis, Vice President of the Latvian Soviet Social Republic Academy of Sciences, echoing the new Soviet policies of glasnost, and perestroika, has stated that "it is necessary to cleanse history of various distortions and deformations, to return civic spirit, honesty and courage to it": Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that—

(1) prior to November 18, 1987, the Secretary of State should inform the Government of the Soviet Union that the United States Government supports the right of the Latvian people to peaceably assemble to commemorate important dates in their history, and should urge the Soviet Government to—

(A) apply a policy of openness and democratization to the people of Latvia;

(B) allow the people of Latvia to publicly commemorate November 18 in whatever peaceful manner they may choose, without fear of arrest, harassment, or other resprisals;

(C) allow the Western media access to Riga, Latvia, on November 18, 1987, to observe and report on events of that day;

(D) halt immediately the harassment of the members of all Latvian human rights groups, including HELSINKI 86 and the Latvian Christian Movement for Rebirth and Renewal; and

(E) release, prior to November 18, 1987, all Latvian prisoners of conscience from internal exile, prison, and labor camps in the Soviet Union, including Latvian human rights activists Linards Grantins and Gunars Astra;

(2) the President should direct all appropriate United States Government agencies to monitor closely the events of November 18, 1987, in Riga, Latvia, and should send an appropriate United States Government representative to Latvia on November 18, 1987, to observe personally the events of that day; and

(3) the President and the Secretary of State should raise the issues of human rights and self-determination in the Baltic states during the next United States-Soviet summit.

Mr. RIEGLE. Mr. President, I am pleased to be joined by the majority and minority leaders and a number of my Senate colleagues in submitting this concurrent resolution, asking the President to urge Soviet authorities to allow the Latvian people to hold a peaceful demonstration to mark Latvian Independence Day on November 18.

During the past 6 months, the citizens of the Baltic republics have twice participated in mass demonstrations to publicly commemorate important dates in their nations' history.

On June 14, more than 5,000 citizens gathered at the Monument of Liberty in Riga, Latvia, to honor the victims of the Stalinist deportations in the 1940's. A crowd twice that size went to the monument on August 23 to protest the signing of the 1939 Molotov-Ribbentrop Pact, which cosigned the Baltic republics to Soviet control. Simultaneous demonstrations occurred on that date in Estonia and Lithuania as well.

November 18 will mark the 69th anniversary of the founding of the independent Republic of Latvia. Although the Latvian human rights group, Helsinki 86, which organized the previous two events, has not officially called for a November 18 demonstration, credible Western news reports and other sources inside Latvia report widespread sentiment among the people there to gather publicly to mark this important date.

While Soviet authorities reluctantly tolerated the June 14 demonstration, official response was harsher to the August 23 event. Many participants were arrested, human rights leaders were beaten, fired from their jobs and threatened with further reprisals. Indications are that official response to a third mass demonstration will be harsher still.

A high-ranking Latvian Communist Party official has issued the warning that participation in a November 18 demonstration at the Monument of Liberty would be reviewed as an anti-Soviet act, and the Latvian people have received warnings of reprisals if they participate. Rumors, perhaps intentionally spread by the Government, are that the KGB is preparing provocateurs to disrupt the peaceful demonstration, in order to give authorities an excuse to suppress the demonstration by force.

Rolands Silaraups, a member of Helsinki 86 who led the June 14 demonstration in Riga, and who has recently emigrated to the West, believes that strong congressional support for this resolution will greatly enhance the likelihood that the Latvian people will be allowed to mark their independence day without official interference and without fear of reprisals.

I am therefore hopeful that the Senate will have an opportunity to vote on this important concurrent resolution prior to November 18, and I urge all Senators to support it.

AMENDMENTS SUBMITTED

REGULATIONS FOR THE PREVENTION OF POLLUTION BY GARBAGE FROM SHIPS

BENTSEN (AND OTHERS) (EXECUTIVE) AMENDMENT NO. 1127

Mr. BENTSEN (for himself, Mr. CHILES, Mr. GRAHAM, Mr. GRAMM, Mr. HEFLIN, Mr. SHELBY, and Mr. JOHNSTON) proposed an amendment to the resolution of ratification to Treaty Doc. 100-3, Annex V, Regulations for the Prevention of Pollution by Garbage From Ships, an Optional Annex to the 1978 Protocol Relating to the International Convention for the Prevention of Pollution From Ships, 1973 (MARPOL 73/78); as follows:

Strike all after the Resolving clause, and add in lieu thereof the following:

"That the Senate advise and consent to the ratification of Annex V, Regulations for the Prevention of Pollution by Garbage from Ships, an Optional Annex to the 1978 Protocol Relating to the International Convention for the Prevention of Pollution from Ships, 1973 (MARPOL 73/78), subject to the following:

"(a) UNDERSTANDING.—

"(1) The United States Government shall make every reasonable effort the have the Gulf of Mexico designated a 'special area' governed by the terms of Regulation 5 of Annex V to the 1978 Protocol Relating To The International Convention For The Prevention Of Pollution From Ships, 1973 (MARPOL 73/78).

"(2) The President shall include this understanding incorporated by the Senate in the Resolution of Ratification in the instrument of Ratification to be deposited with the Secretary-General of the International Maritime Organization."

PRINTING OF REPORT OF HOUSE AND SENATE SELECT COMMITTEES ON IRAN AS A JOINT REPORT

INOUYE (AND RUDMAN) AMENDMENT NO. 1128

Mr. INOUYE (for himself and Mr. RUDMAN) proposed an amendment to the concurrent resolution (H. Con. Res. 195) providing for filing and printing of the reports of the House and Senate select committees on Iran as a joint report; as follows:

On page 2, line 4, strike all through line 18 and insert in lieu thereof the following:

"(b) The first volume of the joint report shall contain a summary of facts, descriptive matter, findings, conclusions, and recommendations, including supplemental, minority, and additional views. In addition to the usual number, nine thousand copies of such volume shall be printed for the use of the House select committee and nine thousand copies of such volume shall be printed for the use of the Senate select committee."

HELMS AMENDMENT NO. 1129

Mr. HELMS proposed an amendment to the concurrent resolution, House Concurrent Resolution 195, supra; as follows:

Add at the end of the Concurrent Resolution the following new section:

"SEC. . It is the sense of Congress that it is not in the national security interest of the United States that any individual who appeared before the Senate Select Committee on Secret Military Assistance to Iran and the Nicaraguan Opposition or the House Select Committee to Investigate Covert Arms Transactions With Iran should be indicted or otherwise prosecuted or tried for any activity related to the subject matter before such Committees unless such activities resulted in the clear personal and illegal financial gain of such persons or their perjury.".

FEDERAL RAILROAD SAFETY ACT AMENDMENTS

EXON AMENDMENT NO. 1130

Mr. EXON proposed an amendment to the bill (S. 1539) to amend the Federal Railroad Safety Act of 1970, and for other purposes; as follows:

On page 4, line 10, strike "(j)(1)" and insert in lieu thereof "(i)(1)".

On page 3, between lines 16 and 17, insert the following:

(3) Section 209(c) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 438(c)) is amended by adding at the end the following: "For purposes of this section, an individual shall be deemed not to have committed a willful violation where such individual has acted pursuant to the direct order of a railroad official or supervisor.".

At the end of the bill, add the following:

AMENDMENTS TO SAFETY APPLIANCE ACTS

SEC. 13. The Act of March 2, 1893 (45 U.S.C. 1-7), the Act of March 2, 1903 (45 U.S.C. 8-10), and the Act of April 14, 1910 (45 U.S.C. 11-16), commonly referred to as the Safety Appliance Acts are amended as follows:

(a) The Act of March 2, 1893, is amended—

(1) in the first section (45 U.S.C. 1)—

(A) by striking "common carrier engaged in interstate commerce by";

(B) by striking "in moving interstate traffic"; and

(C) by striking "in such traffic"; (2) in section 2 (45 U.S.C. 2)—

(A) by striking "common carrier" and inserting in lieu thereof "railroad"; and

(B) by striking "used in moving interstate traffic";

(3) in section 3 (45 U.S.C. 3), by striking "person, firm, company, or corporation engaged in interstate commerce by";

(4) in section 4 (45 U.S.C. 4), by striking "in interstate commerce";

(5) in section 5 (45 U.S.C. 5), by striking "in interstate traffic";

(6) in section 6 (45 U.S.C. 6)—

(A) by striking all before the first semicolon and inserting in lieu thereof the following: "Any such person (including a railroad or any individual who performs service covered under the Act of March 4, 1907, commonly referred to as the Hours of Service Act (45 U.S.C. 61 et seq.), as in effect on the date of enactment of the Railroad Safety Act of 1987, or who performs other safety-sensitive functions for a railroad, as those functions are determined by the Secretary of Transportation) using any locomotive engine, running any train, or hauling or permitting to be hauled or used on its line any car in violation of any of the provisions of this Act, shall be liable to a penalty in such amount, not less than $250 nor more than $10,000 per violation (with each day of a violation constituting a separate violation), as the Secretary of Transportation deems reasonable, except that a penalty may be assessed against an individual only for a willful violation, such penalty to be assessed by the Secretary of Transportation and, where compromise is not reached by the Secretary, recovered in a suit or suits to be brought by the United States Attorney for the judicial district in which the violation occurred, in which the individual defendant resides, or in which the defendant has its principal executive office"; and

(B) by adding at the end the following: "For purposes of this section, an individual shall be deemed not to have committed a willful violation where such individual has acted pursuant to the direct order of a railroad official or supervisor."; and

(7) in section 8 (45 U.S.C. 7)—

(A) by striking "common carrier" and inserting in lieu thereof "railroad"; and

(B) by striking "such carrier" and inserting in lieu thereof "such railroad".

(b) The Act of March 2, 1903, is amended—

(1) in the first section (45 U.S.C. 8), by striking "common carriers by" and by striking "engaged in interstate commerce" the second time it appears;

(2) in section 2 (45 U.S.C. 9)—

(A) by striking "common carriers engaged in interstate commerce by railroad" and inserting in lieu thereof "railroads"; and

(B) by striking "engaged in interstate commerce"; and

(3) in section 3 (45 U.S.C. 10), by striking "common carrier" and inserting in lieu thereof "railroad".

(c) The Act of April 14, 1910, is amended—

(1) in section 2 (45 U.S.C. 11), by striking "common carrier" and inserting in lieu thereof "railroad";

(2) in section 3 (45 U.S.C. 12)—

(A) by striking "in interstate or foreign traffic" wherever it appears;

(B) by striking "common carriers" and inserting in lieu thereof "railroads"; and

(C) by striking "common carrier" and inserting in lieu thereof "railroad";

(3) in section 4 (45 U.S.C. 13)—

(A) by striking "common carrier" and inserting in lieu thereof "person (including a railroad or any individual who performs service covered under the Act of March 4, 1907, commonly referred to as the Hours of Service Act (45 U.S.C. 61 et seq.), as in effect on the date of enactment of the Railroad Safety Act of 1987, or who performs other safety-sensitive functions for a railroad, as those functions are determined by the Secretary of Transportation)";

(B) by striking "carrier" wherever it appears and inserting in lieu thereof "person";

(C) by stiking "of not less than $250 and not more than $2,500 for each and every such violation," and inserting in lieu thereof the following: "in such amount, not less than $250 nor more than $10,000 per violation (with each day of a violation constituting a separate violation), as the Secretary of Transportation deems reasonable, except that a penalty may be assessed against an individual only for a willful violation, such penalty";

(D) by striking "and recovered" and inserting in lieu thereof the following: "and, where compromise is not reached by the Secretary, recovered"; and

(E) by adding at the end the following: "For purposes of this section, an individual shall be deemed not to have committed a willful violation where such individual has acted pursuant to the direct order of a railroad official or supervisor.";

(4) in section 5 (45 U.S.C. 14), by striking "common carrier" and inserting in lieu thereof "railroad"; and

(5) by amending the first section (45 U.S.C. 16) to read as follows: "That used in this Act, the Act of March 2, 1893 (45 U.S.C. 1-7), and the Act of March 2, 1903 (45 U.S.C. 8-10), commonly known as the Safety Appliance Acts, the term 'railroad' shall have the same meaning as when used in the Federal Railroad Safety Act of 1970 (45 U.S.C. 431 et seq.).".

AMENDMENTS TO LOCOMOTIVE INSPECTION ACT

SEC. 14. The Act entitled "An Act to promote the safety of employees and travelers upon railroads by compelling common carriers engaged in interstate commerce to equip their locomotives with safe and suitable boilers and appurtenances thereto", approved February 17, 1911 (45 U.S.C. 22 et seq.), is amended—

(1) by amending the first section (45 U.S.C. 22) to read as follows: "That the term 'railroad', when used in this Act, shall have the same meaning as when used in the Federal Railroad Safety Act of 1970 (45 U.S.C. 431 et seq.).";

(2) in section 2 (45 U.S.C. 23), by striking "carrier" wherever it appears and inserting in lieu thereof "railroad";

(3) in section 5 (45 U.S.C. 28)—

(A) by striking "common carrier" and inserting in lieu thereof "railroad"; and

(B) by striking "carrier" wherever it appears and inserting in lieu thereof "railroad";

(4) in section 6 (45 U.S.C. 29), by striking "carrier" and "carriers" wherever they appear and inserting in lieu therof "railroad" and "railroads", respectively;

(5) in section 8 (45 U.S.C. 32), by striking "carrier" wherever it appears and inserting in lieu thereof "railroad"; and

(6) in section 9 (45 U.S.C. 34)—

(A) by striking all before the first semicolon and inserting in lieu thereof the following: "Any person (including a railroad or any individual who performs service covered under the Act of March 4, 1907, commonly referred to as the Hours of Service Act (45 U.S.C. 61 et seq.), as in effect on the date of enactment of the Railroad Safety Act of 1987, or who performs other safety-sensitive functions for a railroad, as those functions are determined by the Secretary of Transportation) violating this Act, or any rule or regulation made under its provisions or any lawful order of any inspector shall be liable to a penalty in such amount, not less than $250 nor more than $10,000 per violation (with each day of a violation constituting a separate violation), as the Secretary of Transportation deems reasonable, except that a penalty may be assessed against an individual only for a willful violation, such penalty to be assessed by the Secretary of Transportation and, where compromise is not reached by the Secretary, recovered in a suit or suits to be brought by the United States Attorney for the judicial district in which the violation occurred, in which the individual defendant resides, or in which

the defendant has its principal executive office"; and

(B) by adding at the end the following: "For purposes of this section, an individual shall be deemed not to have committed a willful violation where such individual has acted pursuant to the direct order of a railroad official or supervisor.".

AMENDMENTS TO ACCIDENT REPORTS ACT

SEC. 15. The Act entitled "An Act requiring common carriers engaged in interstate and foreign commerce to make full reports of all accidents to the Interstate Commerce Commission, and authorizing investigations thereof by siad commission", approved May 6, 1910 (45 U.S.C. 38 et seq.) is amended—

(1) in the first section (45 U.S.C. 38)—

(A) by striking "common carrier engaged in interstate or foreign commerce by";

(B) by striking "carriers" and by inserting in lieu thereof "railroads"; and

(C) by adding at the end the following: "The term 'railroad', when used in this Act shall have the same meaning as when used in the Federal Railroad Safety Act of 1970 (45 U.S.C. 431 et seq.).";

(2) in section 2 (45 U.S.C. 39)—

(A) by striking from "common carrier" and inserting in lieu thereof "railroad"; and

(B) by striking the last sentence;

(3) in section 3 (45 U.S.C. 40)—

(A) by striking "common carrier engaged in interstate of foreign commerce by" and

(B) by striking "carriers" and inserting in lieu thereof "railroads";

(4) by amending section 7 (45 U.S.C. 43) to read as follows:

"SEC. 7. Any person (including a railroad or any individual who performs service covered under the Act of March 4, 1907, commonly referred to as the Hours of Service Act (45 U.S.C. 61 et seq.), as in effect on the date of enactment of the Railroad Safety Act of 1987, or who performs other safety-sensitive functions for a railroad, as those functions are determined by the Secretary of Transportation) who violates this act or any rule, regulation, order, or standard issued under this Act or the Federal Railroad Safety Act of 1970 pertaining to accident reporting or investigations shall be liable for a penalty in such amount, not less than $250 nor more than $10,000 per violation (with each day of a violation constituting a separate violation), as the Secretary of Transportation deems reasonable, except that a penalty may be assessed against an individual only for a willful violation, such penalty to be assessed by the Secretary of Transportation and, where compromise is not reached by the Secretary, recovered in a suit or suits to be brought by the United States Attorney for the judicial district in which the violation occurred, in which the individual defendant resides, or in which the defendant has its principal executive office. For purposes of this section, an individual shall be deemed not to have committed a willful violation where such individual has acted pursuant to the direct order of a railroad official or supervisor.".

AMENDMENTS TO HOURS OF SERVICE ACT

SEC. 16. The Act of March 4, 1907, commonly referred to as the Hours of Service Act (45 U.S.C. 61 et seq.), is amended—

(1) in the first section (45 U.S.C. 61)—

(A) in subsection (a), by striking "common carrier engaged in interstate or foreign commerce by";

(B) in subsection (b)(1), by striking all after "term" and inserting in lieu thereof "'railroad' shall have the same meaning as when used in the Federal Railroad Safety Act of 1970 (45 U.S.C. 431 et seq.).''; and

(C) in subsection (b)(4), by striking "carrier" and inserting in lieu thereof "railroad";

(2) in section 2 (45 U.S.C. 62), by striking "common carrier" wherever it appears and inserting in lieu thereof "railroad";

(3) in section 3 (45 U.S.C. 63), by striking "common carrier" and inserting in lieu thereof "railroad";

(4) in section 3A (45 U.S.C. 63a), by striking "common carrier" and "carrier" wherever they appear and inserting in lieu thereof "railroad";

(5) in section 4 (45 U.S.C. 64), by striking "common carrier" and inserting in lieu thereof "railroad";

(6) in section 5 (45 U.S.C. 64a)—

(A) by amending subsection (a)(1) to read as follows:

"(a)(1) Any person (including a railroad or any officer or agent thereof, or any individual who performs service covered by this Act, or who performs other safety-sensitive functions for a railroad, as those functions are determined by the Secretary of Transportation) that requires or permits any employee to go, be, or remain on duty in violation of section 2, section 3, or section 3A of this Act, or that violates any other provision of this Act, shall be liable for a penalty of up to $1,000 per violation, as the Secretary of Transportation deems reasonable, except that a penalty may be assessed against an individual only for a willful violation, such penalty to be assessed by the Secretary of Transportation and, where compromise is not reached by the Secretary, recovered in a suit or suits to be brought by the United States Attorney for the judicial district in which the violation occurred, in which the individual defendant resides, or in which the defendant has its principal executive office. It shall be the duty of the United States Attorney to bring such an action upon satisfactory information being lodged with him. In the case of a violation of section 2 (a)(3) or (a)(4) of this Act, each day a facility is in noncompliance shall constitute a separate offense. For purposes of this section, an individual shall be deemed not to have committed a willful violation where such individual has acted pursuant to the direct order of a railroad official or supervisor.";

(B) in subsection (a)(2), by striking "the common carrier" and inserting in lieu thereof "such person";

(C) in subsection (c), by striking "common carrier" and inserting in lieu thereof "railroad"; and

(D) in subsection (d), by striking "carrier" and inserting in lieu thereof "railroad".

AMENDMENTS TO SIGNAL INSPECTION ACT

SEC. 17. Section 26 of the Act of February 4, 1887 (49 App. U.S.C. 26) is amended—

(1) by amending subsection (a) to read as follows:

"(a) The term 'railroad' as used in this section shall have the same meaning as when used in the Federal Railroad Safety Act of 1970 (45 U.S.C. 431 et seq.).";

(2) in subsection (b), by striking "carrier" wherever it appears and inserting in lieu thereof "railroad", and by striking "carriers" and inserting in lieu thereof "railroads";

(3) in subsection (c)—

(A) by striking "carrier by"; and

(B) by striking "carrier" wherever it appears and inserting in lieu thereof "railroad";

(4) in subsection (d), by striking "carrier" wherever it appears and inserting in lieu thereof "railroad";

(5) in subsection (e), by striking "carrier" and inserting in lieu thereof "railroad";

(6) in subsection (f), by striking "carrier" and inserting in lieu thereof "railroad";

(7) in subsection (h)—

(A) by amending the first sentence to read as follows: "Any person (including a railroad or any individual who performs service covered under the Act of March 4, 1907, commonly referred to as the Hours of Service Act (45 U.S.C. 61 et seq.), as in effect on the date of enactment of the Railroad Safety Act of 1970, or who performs other safety-sensitive functions for a railroad, as those functions are determined by the Secretary of Transportation) which violates any provision of this section, or which fails to comply with any of the orders, rules, regulations, standards, or instructions made, prescribed, or approved hereunder shall be liable to a penalty in such amount, not less than $250 nor more than $10,000 per violation (with each day of a violation constituting a separate violation), as the Secretary of Transportation deems reasonable, except that a penalty may be assessed against an individual only for a willful violation, such penalty to be assessed by the Secretary of Transportation and, where compromise is not reached by the Secretary, recovered in a suit or suits to be brought by the United States Attorney for the judical district in which the violation occurred, in which the individual defendant resides, or in which the defendant has its principal executive office."; and

(B) by adding at the end the following: "For purposes of this section, an individual shall be deemed not to have committed a willful violation where such individual has acted pursuant to the direct order of a railroad offical or supervisor.".

(8) by striking "Commission" wherever it appears and inserting in lieu thereof "Secretary of Transportation".

LAUTENBERG (AND MIKULSKI) AMENDMENT NO. 1131

Mr. LAUTENBERG (for himself and Ms. MIKULSKI) proposed an amendment to the bill S. 1539, supra; as follows:

On page 10, between lines 2 and 3, insert the following new section:

SEC. 12. The Federal Railroad Safety Act of 1970 is amended by inserting immediately after section 202 the following new section:

"SEC. 202A. (a) Within 180 days after the date of enactment of this section, the Secretary shall issue rules, regulations, standards, and orders requiring that whoever performs the required test of automatic train stop, train control, or cab signal apparatus prior to entering territory where such apparatus will be used shall certify in writing that such test was properly performed, and that such certification shall be kept and maintained in the same manner and place as the daily inspection report for that locomotive.

"(b) Within 30 days of the date of enactment of this section, the Secretary shall issue rules, regulations, standards, and orders requiring the use of automatic train control on all trains operating in the Northeast Corridor by not later than December 31, 1990. The Secretary shall submit a report to the Congress by January 1, 1989, on the progress of this effort, and detail in that report any proposals to modify the requirements in this subsection, and the reasons for such modification.

"(c) The Secretary shall require the installation and use of event recorders on freight trains no later than one year after the date of enactment of this section.

"(d)(1) Within 30 days after the date of enactment of this section, the Secretary shall establish a Northeast Corridor Safety Committee and appoint members to the Committee consisting or representatives of—

"(A) the Secretary;

"(B) the National Railroad Passenger Corporation;

"(C) freight carriers;

"(D) commuter agencies;

"(E) railroad passengers; and

"(F) any other persons or organizations interested in rail safety.

"(2) The Secretary shall consult with the Northeast Corridor Safety Committee on safety improvements in the Northeast Corridor.

"(3) Within 90 days following the date of enactment of this section, the Secretary shall, in accordance with section 333 of title 49, United States Code, convene a meeting of Northeast Corridor rail carriers for the purpose of reducing through freight traffic on Northeast Corridor passenger lines.

"(4) Within one year after the date of enactment of this section, and annually thereafter, the Secretary shall submit a report, including any recommendations for legislation, to the Congress on the status of efforts to improve safety in the Northeast Corridor pursuant to the provisions of this section.".

On page 10, line 4, strike out "SEC. 12." and insert in lieu thereof "SEC. 13.".

BENTSEN AMENDMENT NO. 1132

Mr. BENTSEN proposed an amendment, which was subsequently modified, to the bill S. 1539, supra; as follows:

At the end of the bill, add the following new section:

MAXIMUM TRAIN SPEEDS

SEC. . The Secretary of Transportation, in consultation with the Federal Railroad Administration, shall, within six months of the enactment of this legislation, institute a rulemaking, as may be necessary, to provide for the safety of highway travelers and pedestrians who use railroad grade crossings at points where trains operate through any densely populated college campus. As determined by the Secretary to be necessary such rulemaking shall require maximum speed limits for trains, guardrails and warning lights at railgrade crossings located on any such campus, and intensified presentation of Operation Lifesaver educational programs on such campuses to familiarize students and other persons with the inherent dangers of such crossings.

HOLLINGS AMENDMENT NO. 1133

Mr. EXON (for Mr. HOLLINGS) proposed an amendment to the bill S. 1539, supra; as follows:

At the end of the bill, add the following:

RAIL PASSENGER SERVICE ACT AMENDMENTS

SEC. . (a) Section 301 of the Rail Passenger Service Act (45 U.S.C. 541) is amended by striking "agency" and inserting in lieu thereof "agency, instrumentality,".

(b) Section 303(a)(1)(E) of the Rail Passenger Service Act (45 U.S.C. 543(a)(1)(E)) is amended to read as follows:

"(E) Two members selected by the preferred stockholders of the Corporation, who each shall serve for a term of one year or until their successors have been appointed.".

(c) Section 303(d) of the Rail Passenger Service Act (45 U.S.C. 543(d)) is amended by striking the third sentence and inserting in lieu thereof the following: "The president and other officers of the Corporation shall receive compensation at a level no higher than the general level of compensation paid officers of railroads in positions of comparable responsibility.".

(d) Section 308(a) of the Rail Passenger Service Act (45 U.S.C. 548(a)) is amended by inserting immediately after "also" in the last sentence the following: "provide all relevant information concerning any decision to pay to any officer of the Corporation compensation at a rate in excess of that prescribed for level I of the Executive Schedule under section 5312 of title 5, United States Code, and".

(e) Section 602(i) of the Rail Passenger Service Act (45 U.S.C. 602(i)) is repealed.

(f) Subsection (b) of the first section of the Act entitled "An Act to amend the Rail Passenger Service Act of 1970 in order to provide financial assistance to the National Railroad Passenger Corporation, and for other purposes", approved June 22, 1972 (Public Law 92-316; 86 Stat. 227), is repealed.

ADAMS AMENDMENT NO. 1134

Mr. ADAMS proposed an amendment to the bill S. 1539, supra; as follows:

At the end of the bill, add the following:

PROTECTION FOR CERTAIN WORKERS

SEC. . (a) No employee shall be disciplined or sanctioned as a result of information discovered through access authorized by this Act to the National Driver Register, where such employee has successfully completed a rehabilitation program subsequent to the cancellation, revocation, or suspension of the motor vehicle operator's license of such person.

(b) Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431), as amended by this Act, is further amended by adding at the end the following:

"(j) The Secretary shall, within one year after the date of enactment of the Railroad Safety Act of 1987, issue such rules, regulations, orders, and standards as may be necessary for the protection of maintenance-of-way employees, including standards for bridge safety equipment, such as nets, walkways, handrails, and safety lines, and requirements relating to instances when boats shall be used.".

(c) Section 2 of the Act of March 4, 1907, commonly referred to as the Hours of Service Act (45 U.S.C. 62), is amended by adding at the end the following:

"(e) As used in section 2(a)(3) of this Act, the term 'employee' shall be deemed to include an individual employed for the purpose of maintaining the right-of-way of any railroad.".

(d) The Secretary of Transportation shall, within one year after the date of enactment of this Act, amend part 218 of title 49, Code of Federal Regulations, to apply blue signal protection to on-track vehicles where rest is provided.

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS, FISCAL YEAR 1988

GLENN (AND OTHERS) AMENDMENT NO. 1135

(Ordered to lie on the table.)

Mr. GLENN (for himself, Mr. PROXMIRE, Mr. SIMON, Mr. BUMPERS, Mr. COCHRAN, Mr. HARKIN, Mr. DIXON, and Mr. PELL) submitted an amendment intended to be proposed by them to the bill (H.R. 2700) making appropriations for energy and water development for the fiscal year ending September 30, 1988, and for other purposes; as follows:

On page 49, between lines 20 and 21, insert the following:

"SEC. 309. Out of the appropriations for the Department of Energy under this title, $2,600,000 shall be available for the Reduced Enrichment Research and Test Reactor Program.".

GLENN (AND OTHERS) AMENDMENT NOS. 1136 AND 1137

(Ordered to lie on the table.)

Mr. GLENN (for himself, Mr. PROXMIRE, Mr. SIMON, Mr. BUMPERS, Mr. DIXON, Mr. HARKIN, and Mr. PELL) submitted two amendments intended to be proposed by them to the bill H.R. 2700, supra; as follows:

AMENDMENT NO. 1136

On page 41, line 4, after "expended," insert "of which $2,600,000 shall be available from funds allocated to Nuclear Directed Energy Weapons for the Reduced Enrichment Research and Test Reactor Program,".

AMENDMENT NO. 1137

At the appropriate place, add the following:

"Not withstanding any other provision of this Act, $2,600,000 shall be available from funds allocated to Nuclear Directed Energy Weapons for the Reduced Enrichment Research and Test Reactor Program,".

GLENN (AND OTHERS) AMENDMENT NO. 1138

(Ordered to lie on the table.)

Mr. GLENN (for himself, Mr. PROXMIRE, Mr. SIMON, Mr. BUMPERS, Mr. COCHRAN, Mr. HARKIN, Mr. DIXON, and Mr. PELL) submitted an amendment intended to be proposed by them to the bill H.R. 2700, supra; as follows:

At the appropriate place, add the following:

"Not withstanding any other provision of this Act, out of the appropriations for the Department of Energy under this title, $2,600,000 shall be available for the Reduced Enrichment Research and Test Reactor Program.".

KARNES AMENDMENTS NOS. 1139 THROUGH 1141

(Ordered to lie on the table.)

Mr. KARNES submitted three amendments intended to be proposed

by him to the bill H.R. 2700, supra; as follows:

AMENDMENT No. 1139

On page 2, line 17, strike "$141,450,000" and insert in lieu thereof "$141,550,000".

On page 6, line 9, insert the following new paragraph:

"$100,000 shall be available for the Secretary of the Army, acting through the Chief of Engineers, to initiate a plan of review for Elm Creek, Decatur, Nebraska, under the provisions of Section 903(b) of Public Law 99-662."

AMENDMENT No. 1140

On page 6, line 18, insert the following: strike "$1,046,446,000" and insert in lieu thereof "$1,047,446,000".

On page 12, after line 10, insert the following:

"$3.5 million shall be made available for construction on the Papillion Creeks and Tributaries Lakes Project, Nebraska, which includes $1 million for work on water quality problems associated with Dam Site 18."

AMENDMENT No. 1141

On page 15, line 1, insert the following: strike "$1,404,738,000" and insert in lieu thereof "$1,404,938,000".

On page 15, after line 19, insert the following:

"$200,000 shall be made available for repairs necessary to maintain the integrity of existing federally financed streambank erosion control projects located in the Missouri National Recreation River, Nebraska and South Dakota, project corridor."

NOTICES OF HEARINGS

SUBCOMMITTEE ON MINERAL RESOURCES DEVELOPMENT AND PRODUCTION

Mr. MELCHER. Mr. President, I would like to announce for the information of the Senate and the public that an oversight hearing has been scheduled before the Subcommittee on Mineral Resources Development and Production on Monday, November 16, 1987, at 10 a.m. in room 366 of the Dirksen Senate Office Building. The purpose of the hearing is to receive testimony concerning the proposed rules issued by the Department of the Interior relating to the valuation of coal production from Federal and Indian leases for royalty purposes.

Those wishing to submit written testimony should address it to the Committee on Energy and Natural Resources, room 364, Dirksen Senate Office Building, Washington, DC 20510.

For further information, please contact Patricia Beneke at (202) 224-2383 or Lisa Vehmas at (202) 224-7555.

Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Subcommittee on Mineral Resources Development and Production on Tuesday, November 17, 1987, at 10 a.m. in room 366 of the Dirksen Senate Office Building. The purpose of the hearing is to receive testimony on S. 1120, the "Federal Coal Leasing and Utilization Act of 1987".

Those wishing to submit written testimony should address it to the Committee on Energy and Natural Resources, room 364 Dirksen Senate Office Building, Washington, DC 20510.

For further information, please contact Patricia Beneke at (202) 224-2383 or Lisa Vehmas at (202) 224-7555.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. LEAHY. Mr. President, I wish to announce that the Committee on Agriculture, Nutrition, and Forestry will hold a hearing on Monday, November 16, 1987, at 2 p.m. in SR332 to receive testimony on the nomination of Roland Vautour to be Under Secretary of Agriculture for Small Community and Rural Development, and a member of the Board of Directors of the Commodity Credit Corporation.

For further information, please contact Mike Dunn of the committee staff at 224-2035.

SUBCOMMITTEE ON AGRICULTURAL PRODUCTION AND STABILIZATION OF PRICES

Mr. LEAHY. Mr. President, I wish to announce that the Subcommittee on Agricultural Production and Stabilization of Prices of the Committee on Agriculture, Nutrition, and Forestry will hold a joint hearing with the House Agriculture Subcommittee on Wheat, Soybeans, and Feed Grains to receive testimony on the impact of Federal inspection service protein measurement on wheat prices. The hearing will be held on November 10, 1987 at 10 a.m. in room 332, Russell Senate Office Building.

Senator JOHN MELCHER will preside. For further information please contact David Voight of Senator MELCHER's office at 224-2644.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON THE JUDICIARY

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to hold a business meeting during the session of the Senate on November 5, 1987.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. BYRD. Mr. President, I ask unanimous consent that the Select Committee on Indian Affairs, be authorized to meet during the session of the Senate on Thursday, November 5, 1987, at 2 p.m. to hold hearings on the Implementation of the Omnibus Drug Act (Pubic Law 99-570, title IV, part C) and on S. 1684, Florida Seminole Water Claims Settlement, and to hold a markup on S. 795, San Luis Rey Water Rights Settlement Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON HAZARDOUS WASTES AND TOXIC SUBSTANCES

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Hazardous Wastes and Toxic Substances, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on November 5, to conduct an oversight hearing on the regulation of biotechnology.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON CONSUMER AFFAIRS

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Consumer Affairs of the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate Thursday, November 5, 1987 at 3:15 p.m. to conduct oversight hearings on the ability of consumers to plan their financial affairs.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on November 5, 1987 to hold a hearing on judicial nominations.

The PRESIDING OFFICER. Without objection it is so ordered.

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Public Lands, National Parks and Forests be authorized to meet during the session of the Senate on Thursday, November 5, 1987, to continue hearings to receive testimony on S. 708, a bill to require annual appropriations of funds to support timber management and resource conservation on the Tongass National Forest.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

SALUTING BILL DAVIDSON

● Mr. LEVIN. Mr. President, tonight, in Southfield, MI, Congregation Shaarey Zedek is paying tribute to a very special man. William Davidson will receive Israel's Peace Medal at a dinner to benefit State of Israel bonds.

Let me read from the invitation to this event:

It is singularly fitting that, on the eve of the 40th anniversary of a remarkable nation, the Detroit Jewish Community and Congregation Shaarey Zedek salute a remarkable man.

Bill Davidson is dedicated and determined. He has served as president of his beloved Congregation Shaarey Zedek. His deep commitment to

Jewish education can be seen in his building of a wing at the Hillel Day School of Metropolitan Detroit.

He has remembered his own alma mater by establishing a visiting professorship in business administration at the University of Michigan. And he has endowed a chair in industrial and managerial engineering at the Technion-Israel Institute of Technology.

He has a profound interest in the quality of life of his community and has participated with great generosity in philanthropic efforts to satisfy educational, social, and cultural needs both in this country and abroad.

As involved as Bill is in the business world and community life, he still finds time to avidly follow the Detroit Pistons, of which he is the principal owner. Not surprisingly, Bill is more than just a fan. He has a terrific relationship with the players and truly loves the game. Bill had special reason to be proud of the Pistons this past year when they went all the way to the semifinals in the NBA and took the powerful Boston Celtics to a hard-fought seven game series.

Let me conclude with another quotation from the invitation to tonight's dinner:

It is with justifiable pride that Congregation Shaarey Zedek pays tribute to a vigorous international industrialist who is also a distinguished leader in congregational and communal life.

As we congratulate a good friend and great community leader, Bill Davidson, we also want to commend his congregation and community for recognizing his many contributions. Tonight will be an evening of celebration.●

JAPAN SELECTS BOEING TO SUPPLY PRIME MINISTER AIRCRAFT

● Mr. EVANS. Mr. President, within the last 2 weeks the Government of Japan has made a final decision to purchase two aircraft for use by the Prime Minister and the Foreign Minister for official foreign travel. I am pleased and proud that they have selected the Boeing Model 747-400 for this important and prestigious mission.

By selecting the Boeing aircraft, the Japanese Government sends a clear and strong message to the rest of the world: This Northwest company is at the absolute top of the commercial aviation industry. Although other excellent U.S.-built and foreign-built aircraft also were considered, the 747-400 turned out to be the best of the best.

I want to commend the Japanese Government for making the choice that they did. Obviously it will mean even more work for Boeing and more employment in the State of Washington. But is a broader context, it demonstrates that the Japanese are serious when they say they want to work with us in bringing greater balance to our trade relationship.

By selecting a U.S. aircraft as their equivalent to our Air Force One, the Japanese are manifesting a desire to continue to pursue mutually beneficial commercial activities with the United States. They have manifested that desire—and the desire to stengthen already strong collective security ties—through other important acts in recent weeks as well.

Responding quickly to the revelations that high-technology items had been illegally diverted to the Soviet Union by Toshiba, the Japanese Government developed a comprehensive package designed to ensure both that it doesn't happen again and that we can recoup some of the severe national security losses that resulted from that diversion. The Japanese also recently announced that they would enter into a joint production agreement with General Dynamics to build a new fighter support aircraft.

These steps are welcome. Further work needs to be done, however, if we are going to restore totally the balance necessary to sustain a prosperous trading relationship into the future. Japan must continue to evaluate carefully their long-term security needs and to recognize that other United States equipment—such as advanced airborne early warning aircraft—is available to help them meet their defense objectives. I applaud the efforts of the Japanese in recent months and look forward to an ever more beneficial relationship in the future.●

TRADE COOPERATION BETWEEN THE UNITED STATES AND JAPAN

● Mr. ADAMS. Mr. President, I am pleased to learn of the decision by the Japanese to purchase two Boeing model 747-400 aircraft from us by the Prime Minister as his official aircraft. These aircraft will be delivered sometime in the spring of 1991 and will reduce our bilateral trade deficit with the Japanese by $250 million.

This transaction represents the kind of cooperation which will be needed to resolve our bilateral trade tensions with the Japanese. The Japanese have made a great effort with respect to this particular sale. This Senator is grateful and indeed this country should hold this up as an example of the tremendous potential for improved cooperation between the United States and Japan in expanding, not contracting our trade opportunities.●

CENTENNIAL ANNIVERSARY OF CHINO, CA

● Mr. WILSON. Mr. President, November marks an important date in the history of California. One hundred years ago this month, the city of Chino, CA, was founded and I think it appropriate to reflect on the colorful history, growth, and prosperity of the Chino Valley.

The history of Chino began some 200 years ago when bands of Indians roamed the fertile valley and hunted game that existed in ample supply. In the early 1800's, the land became part of the San Gabriel Mission and was used to graze horses and cattle belonging to the mission. In 1810, a young Spaniard named Don Antonio Maria Lugo began to accumulate lands and was granted rights, in 1841, to what was to become the 47,000-acre Rancho Santa Del Chino. He later sold the Rancho to his son-in-law, Issac Williams.

Richard Gird purchased Rancho Del Chino from Williams' heirs, and in 1887, subdivided 24,000 acres into small ranches, and 640 acres into the town site of Chino, marking the beginning of the town of Chino.

Chino remained basically an agricultural community until the 1950's at which time Chino saw the beginning of residential, commercial and industrial development, growing from a population of 3,196 tin 1930 to its present population of over 50,000.

Chino's growth, achievements and advances since its founding reflect the commitment, fortitude and determination of all the people of the Chino community.

I congratulate and commend the city of Chino and take great pleasure in heralding its centennial anniversary within this Chamber of the U.S. Senate.●

CELEBRATING NATIONAL COMMUNITY EDUCATION DAY

● Mr. RIEGLE. Mr. President, the National Community Education Association is planning its sixth annual observance of National Community Education Day on November 17, 1987. I am pleased that the Senate passed my resolution, Senate Joint Resolution 87, to mark this occasion.

Between 1982 and 1986, Governors in 38 States proclaimed community education days in recognition of the strong relationships that have developed between public schools and the communities they serve. Community education is a philosophy which encourages all members in a community to work together to enhance the education process. It recognizes that the community has a wealth of resources that can enrich the educational process.

I had the opportunity to attend community schools in Flint, MI, where this concept originated over 50 years ago and I am particularly proud of the success of this program in my home community. What began as a small recreational program in 1935 has now

become a strong, positive force not only in Flint but in many other communities across the country. The community education program now provides needed recreational, education, cultural, social, and medical services in some 3,500 school districts across the country.

Community education has helped to improve the performance of students and helped open up classrooms for adult education programs to fight illiteracy and teach job skills to workers so they can participate more fully in our increasingly technical workplace and society. The program has also helped reach alienated and isolated groups in our society who need special assistance. One of the greatest values of community schools is that they reestablish a sense of community to give people a sense of connection and of shared purpose.

Mr. President, community education has proven it can help build strong bridges between public schools and their communities. These bridges are essential to improving education so that it can help all citizens meet the challenges of the future. I believe that Community Education Day will help strengthen existing community education programs and provide the impetus for other communities to develop their own programs.●

SALUTE TO JACK STACKPOOL

● Mr. DURENBERGER. Mr. President, more than three decades have passed since I graduated from St. John's University, but I still remember the aggressive ballhandling and take-charge leadership of "fellow-Johnny," Jim Stackpool.

Jim was one of those unique student-athletes St. John's has become known for. He's a great inspiration to the students he has coached. And, I'm proud to say, he's a good friend.

Jim Stackpool's impressive résumé is about to be enhanced, Mr. President, through Jim's induction into the Minnesota Coaches' "Hall of Fame." Jim will be induced into this prestigious group of retired coaches November 6 at a banquet in Minneapolis, along with Bill Selisker of Crosby-Ironton, Walt Williams of Minneapolis-Southwest, and the late Ted Peterson, who was a long-time and well-known sportswriter.

Although he has retired from coaching after 25 years, Jim is still a social studies teacher and athletic director at Glenwood High School. Previously, he taught and coached at Wabasha and Foley.

Jim has always been willing to give of his time to his profession, having served as president of the State coaches association, game manager for the first two State high school all-star basketball games, and as district and regional representative to the Minnesota State High School League.

Mr. President, because of his outstanding contributions to the education and athletic accomplishments of young athletes over more than a quarter century, I would ask that the full text of the following article on Jim Stackpool from the West Central Tribune in Willmar, MI, be printed in the RECORD.

The article follows:

[From the West Central Tribune, Aug. 28, 1987]

COACHING GROUP HONORS STACKPOOL

(By Bruce Strand)

GLENWOOD.—Jack Stackpool has always said "yes" to getting involved in projects that promote Minnesota high school basketball.

In recognition, the Minnesota Basketball Coaches Association has said "yes" to Glenwood's nomination of Stackpool to the state coaches Hall of Fame.

Stackpool, 53, a social teacher and athletic director at Glenwood, coached 25 years at Wabasha, Foley and Glenwood. The association honors only retired coaches.

He'll be inducted Nov. 6 at a banquet in Minneapolis, along with Bill Sellisker of Crosby-Ironton. Walt Williams of Minneapolis Southwest, and the late sportswriter Ted Peterson of Minneapolis and Alexandria.

"It's an excellent honor," said Stackpool. "You always try to do the best you can as you coach, and this is something nice added on by my fellow coaches."

Stackpool held several offices, including president, with the state coaches association. He served as game manager for the first two state high school all-star basketball games. He was district and region representative for many years.

The MBCA's criteria for Hall of Fame selection are: (1) demonstrating a dedication to the highest value of competitive high school basketball, (2) conducting programs in a beneficial way for players, schools, and community, and (3) membership and participation in the MBCA and its parent organization.

This is the fourth year of the Hall of Fame. Twenty-one persons have been inducted. Stackpool is the first from the Tribune area.

Stackpool was nominated by his longtime assistant, Donald Torgerson, and his successor, John Holsten, along with Albany athletic director Pete Herges and Starbuck coach Greg Starns.

"Jack proved himself in many ways as a coach," said Herges, himself a Football Coaches Hall of Fame member. "His teams were always very well prepared, and his ability to adjust to various changes in the game, I think were responsible for conference championships he won at Foley.

"Ethically, he's a person to look up to, one you'd like to have your son play for."

Torgerson cited Stackpool for being "a leader in our district and region . . . He likes to take charge and see that things are done correctly."

Stackpool is a native of Chicago, where he played prep basketball for Johnny Dee, a former Notre Dame standout who would eventually coach at that university Dee's exteammate. Buster Hiller, coached at St. John's, and Dee steered Stackpool there.

He played basketball at St. John's, where, ironically, he once guarded co-inductee Sellsker in a game in which the Johnnies ended a long losing streak against Hairline.

After earning his degree at St. John's—a masters in education with emphasis on political science from St. Cloud came later—Stackpool served in the Army for two years before starting his teaching/coaching career.

Stackpool never got into a state tournament, but established winning traditions at all his locations while promoting the sport in those extra capacities.

Being active is a family trait.

His wife, Mary, teaches a Partners in Agriculture program (for farm wives) at Alexandria Vo-Tech, and ran unsuccessfully for the state senate last year.

Their youngest son, Tom, was the Tribune's 1978 Hengstler-Ranweller, Award (top area senior athlete) recipient as a four-sport star. He's now a graduate basketball coaching assistant at University of North Dakota, after coaching at Perham for four years.

Oldest son Mike, a drama standout at Glenwood, now works in a psychiatric hospital in Denver. Another son, Dick, a football/track star at Glenwood, has two college degrees and is involved in the insurance business in Dallas. Daughter Ann, an all-state musician in high school, does social work in Cambridge.

"I guess I'm a proud father," he said after rattling off his offspring's achievements in response to a reporter's question.

He took pride in his coaching, too. In both his kids and his job, it showed.●

"DEDICATION OF STATUE TO THE HUNGARIAN FREEDOM FIGHTER"

● Mr. LAUTENBERG. Mr. President, on October 25, 1987, in the Veterans' Park at Passaic, NJ, a statue honoring the Hungarian freedom fighter was dedicated. I would like to draw my colleagues' attention to remarks I made on that occasion:

I want to congratulate Mr. Erno Balogh, the Hungarian Freedomfighters Memorial Committee and the entire community of Hungarian Americans on the dedication of this statue to the Hungarian freedom fighter at Veterans' Park, in Passaic, NJ.

This dedication is a proud and happy occasion, but also a bittersweet one. Bitter because the statue reminds us of the heroic struggle of the Hungarian people against the Soviets in 1956, and of the fact that your native land remains under the oppressive domination of the Soviet Union. And sweet, because the statue will serve as a reminder and a symbol of the courage and deep love for freedom shown by your people in 1956.

The brave Hungarian who fought the Soviets were true freedom fighters. They fought for the freedom to express, the freedom to dissent, the freedom to publish, and the freedom to worship their own God, not the gods of the state. They fought for the freedom to elect a government of their own choosing.

These freedoms have a deep resonance with the American people because the founders of this country fought for exactly these freedoms. That's why the valiant struggle of the Hungarian people struck such a chord of recognition with Americans in 1956, and why it continues to do so today.

I believe it accounts for the success of the Hungarian community in the United States, and for the proud dedication of this statue today. Hungarian Americans have much to be proud of. Some of you participated directly or indirectly in one of the most inspiring, and ultimately tragic uprisings in history.

But the events of 1956 were not in vain. They set an example for the other oppressed peoples of Soviet dominated Eastern Europe. The people of Hungary were leaders in the struggle for freedom. A struggle that continues today, both in Hungary and in Romania.

I know firsthand of the struggle of the Hungarians in Romania from my own Hungarian American constituents and from my visit to Romania this summer. While I was there, I repeatedly raised the issue of oppression of ethnic Hungarians. I pressed Romanian officials at every meeting to explain why Hungarians were not free to speak their own language and teach it to their children.

Why Hungarian schools and theaters are closed or merged until they lose their Hungarian characteristics. The Romanian officials, from President Ceaucescu on down, denied there was a problem with ethnic Hungarians. Yet our request to visit Transylvania to discuss these issues with affected Hungarians was refused.

Instead, we were shunted off to a Romanian ski resort where we were able to speak only to some Hungarian folk dancers. To us, this said almost more than we would have heard in Transylvania. For after all, if the Romanians had nothing to hide, why did they treat us that way?

So the fight for freedom represented by this statue is not only historic. It continues today. And I am very pleased that the community of Passaic will be home to this proud reminder of the bravery and courage of the Hungarian freedom fighters, and of their continuing struggle for freedom.

Congratulations and best wishes! ●

SECURITIES MARKETS ON OCTOBER 19

● Mr. ARMSTRONG. Mr. President, evidence appears to be accumulating concerning the events in the securities markets on October 19 and beyond and what precipitated them.

President Reagan has begun assembling the individuals who might be able to put the evidence into a comprehensive form and the Nation will be awaiting the results of their work. I personally believe that a very important factor was the decision by the Federal Reserve to tighten the money supply, a decision that was reconsidered by the Board of Governors in light of the events on October 19th.

In addition there is growing discussion over the role of the decisions made by the Ways and Means Committee that may have contributed to the greatest single day's decline ever on stock exchanges here and abroad.

One such article that appeared in yesterday's Wall Street Journal written by the Director of Economics at a prominent securities firm makes the case that the disallowance of interest deductions exceeding $5 million a year for debt incurred in takeovers may have been a culprit.

If this tax provision was even partially responsible for what happened in the markets, it was a bad decision. Material provided by the Joint Tax Committee on debt financing and corporate acquisitions estimated—on a static basis—that the revenue to be raised by such a provision would amount to $1.7 billion over 3 years. The day after this provision was adopted $130 billion in values were lost on the New York Stock Exchange, alone, followed on "Black Monday" by another $478 billion in losses on that exchange.

Mr. President, I would like to have printed in the RECORD this article for the benefit of my colleagues which I believes makes a good case for avoiding a bad tax.

The article follows:

THAT M&A TAX SCARE RATTLING THE MARKETS

(By Edward Yardeni)

Tomorrow the House will vote on a $12 billion tax increase containing what was a major cause of the recent stock-market crash. That is a provision designed to severely limit corporate merger and acquisition activity.

Many investors and traders learned of this plan from a Wall Street Journal story on Oct. 14. The Day before, the Democrats on the House Ways and Means Committee agreed on a number of tax-raising measures including the elimination of the deduction for interest expenses exceeding $5 million a year on debt from a takeover or leveraged buyout.

On Oct. 15, the full committee approved the package. Takeover stocks were pummeled late during the trading day (see table). Several announced and unannounced deals were delayed. Arbitragers sold large blocks of the stocks.

Though the tax measures faced an uncertain future both in Congress and with the White House (the Senate Finance Committee on Oct. 16 approved a bill without the anti-takeover provisions), the arbs sold fast. They are not long-term investors, and they feared the worst.

Under the Ways and Means proposal, the interest provision would be retroactive to Oct. 13, a crushing setback to any deal being worked on or considered. To understand its effect, consider this case:

For an $800 million business in a stable industry, a relatively conservative acquisition financing would be 75% debt and 25% equity. The annual interest charges on the $600 million debt would be about $60 million, assuming a 10% interest rate. Under the committee's plan, only $5 million would be deductible. So additional taxes of $18.7 million (34% of $55 million) would have to be paid every year.

The acquirer's annual after-tax cash flow would be reduced by $18.7 million, lowering the value of the business by an estimated $187 million, the value of the reduced cash flow assuming a 10% discount rate. That's a 23% decline in the value of the business!

The decrease in value would be greater if the acquisition were financed entirely with debt, which would be possible if a larger company were the acquirer. It would be less dramatic if more equity were used in the takeover.

How could the collapse in the prices of a small number of takeover stocks cause the awesome crash in the entire stock market? Corporations were the largest purchasers of stocks during the bull market. According to Federal Reserve Board data, corporate equity outstanding declined by $74.5 billion during 1984, $81.5 billion during 1985 and $80.8 billion during 1986. Acquisitions and stock repurchases account for this dramatic reduction in the supply of stocks.

This suggests that the bull market was largely fueled by mergers, acquisitions and buy-backs. Stock values were driven up by corporate entrepreneurs willing to pay above-market prices to control other corporations. Controlling ownership must always be worth more than minority ownership. Presumably, the new owners believe that they can increase the value of the acquired company above their purchase price with better management and by restructuring the business, including selling undervalued assets.

The recent surge in mergers and acquisitions brought more, and larger, publicly traded businesses into the category of corporations that could be acquired. So price-earnings ratios rose closer to valuations based on majority, rather than minority, ownership. Owners of minority interests in public companies benefited as share prices rose.

As shown, the value of a typical corporation to a potential acquirer would be cut by roughly a quarter under the Ways and Means plan. Interestingly, the Dow fell 20.6% from Oct. 13, when the idea was accepted, through last Friday. Price-earnings ratios collapsed toward minority ownership levels.

HOW SOME TAKEOVER STOCKS WERE HIT

	Tues. October 13	Wed. October 14	Thur. October 15	Fri. October 16	Mon. October 19
Allegis	103⅜	102¼	97	93⅞	66
Dayton Hudson	54½	52⅞	49½	44¾	30
Gillette	41¼	40½	36⅝	32¾	24
Irving Bank	74½	72	70	65⅜	48½
Kansas City Southern	70½	67⅞	61¾	56½	45
Mead	45¼	43¼	41½	38¾	29¼
Santa Fe Southern	60¾	61	56¼	51	41⅜
Tenneco	59	60¼	57½	55	43¾
USG	53⅜	52¾	49⅛	43⅜	31½
Zayre	31	30	28⅜	24¾	15⅝

Apparently, the House Ways and Means Committee adopted the provision not only to raise taxes, but also to halt mergers and

acquisitions. Whether this is a good idea is a profound policy question with tremendous implications for U.S. productivity and trade competitiveness. However, a better way to slow takeover activity is to have stock prices that as fully as possible reflect the control values of businesses. Share prices would be higher and pension funds, mutual funds and individual shareholders would be, in the aggregate, $1 trillion better off, or about where they were before the October massacre.

In these days of a weakened presidency, the threat of the Ways and Means bill being enacted was sufficient to cause a widespread flight from equities. We've seen recent precedents for financial-market panic in response to Washington.

For example, on March 27, the administration announced a tariff on certain imports of Japanese electronic products. The dollar immediately plunged and government bond yields soared from 7½% to 9% in a few weeks. Early this summer, the Treasury proposed termination of a tax treaty with the Netherlands Antilles, which permits certain investors to avoid withholding on bond-coupon income. The market in affected bonds declined precipitously until the Treasury corrected the admitted error.

A curious aspect of the present anti-takeover initiative is that foreigners would not be adversely affected by taxes. Their relative ability to acquire U.S. owned companies would be enhanced, doubly so because U.S. companies would stand to be sold at a significant discount to their potential value.

The Ways and Means measure contains some needed takeover reforms, such as a prohibitive tax on "greenmail" payments to raiders. But putting most companies out of reach of entrepreneurs, and sacrificing a measure of the more-accountable management that this fosters, has already had a disastrous effect on equity prices, aggregate wealth and national income. If the House puts the anti-takeover plan to rest, perhaps some of the damage can be undone.●

COMMUTATION OF SENTENCES FOR INDIAN FISHERMEN

● Mr. ADAMS. Mr. President, I rise today to discuss an issue of great sensitivity in my State: The arrest, prosecution, conviction, and current Federal Imprisonment of David Sohappy, Sr., and several other Yakima Indians for violations of Federal, State, and tribal fishing laws. This prosecution has attracted both national and international attention.

It has also attracted the attention of my distinguished colleague from Hawaii, Senator INOUYE. In his capacity as chairman of the Senate Committee on Indian Affairs, Senator INOUYE has written Howard Baker, President Reagan's Chief of Staff, in support of the Yakima Indian Nation's request that the President commute the remainder of these sentences. Today, I would like to add my support to this effort.

The early 1980's were an unhappy chapter in the history of management of Washington State's valuable fisheries resource. Salmon runs were low due to diminished habitat. Ongoing litigation over the extent of Indian treaty fishing rights, and the adverse effects of the Boldt decision on non-Indian fisherman created an atmosphere of economic hardship and cultural tension.

One such issue involved the extent of Indian fishing rights on the Columbia River; and in particular, the fishing activities of David Sohappy, Sr., a 62-year-old member of the Yakima Indian Tribe. Mr. Sohappy has a long history of advocacy on behalf of Indian treaty fisheries rights. For instance, in 1969, his Federal court lawsuit, Sohappy versus Smith, led the U.S. Supreme Court to reaffirm the Stevens Treaties of 1855, and the right of treaty fishermen to fish at their usual and accustomed fishing sites without interference from State authorities. By 1981, David Sohappy, Sr.'s, fishing activities, and his assertions that these activities were justified by both treaty rights and his religion, had created ongoing conflicts with Federal, State, local, and tribal authorities.

Between April 1981 and June 1982, agents of the National Marine Fisheries Service conducted a Federal undercover fish-buying operation known as "Salmonscam" along the Columbia River. During that time, Federal agents, acting at the request of the Washington State Department of Fisheries, purchased in excess of 6,000 salmon and steelhead from over 70 individuals, most of whom were members of the Yakima, Warm Springs, and Umatilla Indian Tribes. A subsequent Federal court indictment charged 19 individuals with participating in a conspiracy to violate Federal, State, and tribal laws during the spring chinook salmon run in April 1982.

David Sohappy, Sr., was charged with being the leader of this conspiracy. A Federal jury acquitted him of the conspiracy charges in April 1983, but found him guilty of four violations of the Lacey Act for selling 317 salmon to Federal undercover agents. His son, David Sohappy, Jr., was found guilty of two Lacey Act violations for selling 28 salmon to the agents. Both Sohappys were sentenced to 5 years in Federal prison. Recently, pursuant to an agreement between the Justice Department and the Yakima Indian Nation, these men were tried in Yakima Indian Nation tribal court on charges of violating tribal fishing law, and were acquitted.

During the course of these lengthy proceedings, the atmosphere in Washington State on fishing issues has improved dramatically. State and tribal officials are now working together to manage this resource for the benefit of all citizens. The new salmon treaty between the United States and Canada, in particular, has enhanced efforts to rebuild salmon stocks. This year, chinook salmon have reappeared in near record numbers, to the delight of sportsmen, commercial, and treaty fishermen alike.

In this new era of cooperation, increasing national and international attention has been focused on David Sohapy, Sr., and the other "Salmonscam" defendants. The case as received detailed treatment from major newspapers across the country; and has also received attention from international human rights groups like Amnesty International. Subsequent to the acquittal of Sohappy and his codefendants in tribal court, and their return to Federal custody, the Yakima Indian Nation joined the defendants in requesting that President Reagan commute the balance of the Federal sentences. As I noted earlier, this request has received the support of Senator INOUYE, as well as editorial support from the Yakima Herald-Republic and the Seattle Times.

At this point, Mr. President, I ask that these two editorials be entered into the RECORD.

The editorials follow:

[From the Seattle Times, Sept. 7, 1987]

"SALMONSCAM" SENTENCE COMMUTATIONS IN ORDER

David Sohappy Sr., his son, and two other Yakima Indians in federal prisons for convictions in the "Salmonscam" illegal-fishing case are paying an inordinately heavy price for their much-publicized offenses.

The petitions for presidential commutation of the sentences of David Sohappy Sr. and Jr., Wilbur Slockish and Leroy Yocash should be granted—if for no other reason than the disproportionality of their sentences.

Consider: The younger Sohappy's five-year sentence was the result of selling 28 illegal salmon to government "sting" operatives.

Also, the senior Sohappy, 62, recently suffered a stroke in federal custody in Spokane. A petition for a medical furlough was turned down. Along with the disproportionality arguments, the commutations are sought on humanitarian grounds.

When Daniel Inouye, D-Hawaii, chairman of the Senate Select Committee on Indian Affairs, was in Seattle last week, he summed up their situation succinctly: "Others in the past have been pardoned for worse offenses."

Inouye has written directly to Howard Baker, President Reagan's chief of staff, saying: "I believe that their petition for a commutation of sentence has merit, and I am sure that when you look into the matter you will agree that simple justice demands an expeditious response to the Yakima Indian Nation."

The celebrated case, which has spawned "Free David Sohappy" bumper stickers, holds many of the complexities of treaty-rights struggles between Indians and state and federal governments.

That argument also is made by Inouye in his letter to Baker:

"You should know that this cause has been followed closely by other Indian tribes who feel that the integrity of our judicial system, and the longstanding government-to-government relationship between their tribes and the U.S. government, are being tested by this case."

The four Yakima Indians, found innocent in Yakima tribal court but guilty in U.S. District Court in California, are not considered dangerous. They have paid their debt. Nothing more is being served by their imprisonment.

[From the Yakima Herald-Republic, Sept. 2, 1987]

SALMONSCAM OVER

If for no other reason than humanitarian, President Reagan should approve the request of Sen. Daniel Inouye, D-Hawaii, that the sentences of five Yakima Indians convicted in the socalled "Salmonscam" case be commuted.

The real legal issues involved in the illegal fish selling episode have long since been blurred by politics. The Yakima Indian Nation has locked horns with the federal government over who has jurisdiction—with the tribal court acquitting the five while a federal court convicted them and sentenced them to prison. That jurisdictional war has long since clouded the crimes' severity.

An executive branch decision in favor of the convicted Indian fishermen would reinforce the primal character of the relationship represented by the 1855 treaty between the Yakima Indian Nation and the United States of America.

Certainly the sorry odyssey of musical prisons, in which the men have been regularly shipped from one federal penitentiary to another, borders on cruel and unusual punishment in itself. Finally, the health of David Sohappy Sr. is now a factor after he suffered a stroke in prison.

The whole Salmonscam case has been a sad commentary on how political considerations can so greatly overshadow legal ones. Frankly, the Salmonscam five have paid their debt to society and there's nothing more to be gained by further confinement in federal prison.

Mr. ADAMS. I also support commutation of these sentences. First, this case raises significant issues concerning Federal Indian policy. Our Government is committed to a government-to-government relationship with Indian tribes. The exercise of criminal jurisdiction over violations of government law is one of the fundamentals of sovereignty. In my opinion the Yakima Indian Nation is the governmental entity with the most direct interest in this case. These men were tried in tribal court, and they were found innocent. I believe that it would be consistent with our government-to-government policy to show deference toward this verdict. One way of showing such deference would be to grant the Yakima Indian Nation's request for commutation.

In addition, there are strong humanitarian reasons why these sentences should be commuted. David Sohappy, Sr., is 62 years old. He has recently suffered a stroke, and is generally in poor health. He is serving an extremely severe sentence compared to those given to other violators of the Lacey Act. For instance, in September 1986, a civil suit was filed against a California shipper for participating in a major fish smuggling and laundering operation between Washington State and Taiwan. This was the largest fish smuggling operation in the history of the United States, involving $800,000 worth of fish.

In contrast, David Sohappy, Sr., convicted for selling one-eightieth of this amount, was sentenced to 5 years in jail. His son received the same sentence for illegally selling 28 fish, truly a minimal amount. These men have now served over 1 year of those sentences; and have been in and out of Federal and tribal custody since their arrest. I believe these men have been in jail long enough to serve their debt toward society, and that mercy and justice would be served by the commutation of the remainder of their sentence.●

INFORMED CONSENT: WISCONSIN

Mr. HUMPHREY. Mr. President, I ask that the following letter from a woman in Wisconsin be inserted in the RECORD at the conclusion of my remarks.

The letter is in favor of my informed consent legislation, S. 272 and S. 273. The bills would require medical personnel in federally funded facilities to secure informed consent from women considering abortion. It is clear from today's letter why such legislation is necessary. The letter follows:

JUNE 10, 1986.

SENATOR, My name is Shelly and I had an abortion when I was 16 years old. I will tell you briefly about my experience with the abortion chamber, and my personal physician prior to my abortion.

My parents decided I was to abort—I told them I felt it was the murder of an innocent baby. "They were told by the physician that it was only a "mass of cells" and was easily removed with no chance of other problems. I was given no other choice or alternatives.

The abortion chamber provided counseling only on the day of the abortion and in a group of 3 other women. I told the counselor that I thought abortion was murder and she quickly enlisted the aid of the other girls to apply pressure and I was bombarded with remarks such as "What would you do with a baby?" and "Where would you go?" I had no answers so I sat silently during the remainder of the session. A uterine model was brought in which contained only a nucleus of cells with protons and neutrons revolving around it—not an 8-10 week fetus which was really there. The fetus was only referred to as a "by-product" of conception and no possible side-effects or alternatives were ever discussed with us.

If someone had offered me an alternative such as a "shepherd home," I would not have had the abortion and I would be at peace now instead of the hell I live in knowing I allowed my baby to be killed. No one ever described possible side-effects with me, not the guilt, depression, low self-esteem, poor decision skills—and there are more. I had developed a predisposition to cervical cancer. One of my children was almost born at six months gestation, but due to modern medicine I was able to carry her to term. I have had suicidal thoughts. There will always be a part of me missing—the baby who never had a chance at life.

Please help the informed consent bill to be passed. I would prefer abortion be outlawed completely, but I feel that many women will not choose abortion if they know the truth.

Sincerely yours,

SHELLY BANDA,
Wisconsin.

PUBLIC OPINION ON THE ENVIRONMENT

● Mr. ADAMS. Mr. President, recently a constituent of mine, Riley Dunlap, sent me an article he had written. Mr. Dunlap has analyzed public opinion on environmental issues relative to the policies of the Reagan administration. Without endorsing all of its conclusions, I believe that the article may be useful to my colleagues when we consider environmental legislation in the future. Accordingly, I ask that Mr. Dunlap's article be printed in the RECORD.

The article follows:

[From Environment, vol. 29 (July-August) 1987]

PUBLIC OPINION ON THE ENVIRONMENT IN THE REAGAN ERA

(By Riley E. Dunlap)

[Figures not reproducible for the RECORD]

Public awareness of environmental problems in the United States emerged rapidly in the late 1960s and reached a peak with the first Earth day celebration in 1970. While public concern with environmental problems declined somewhat during the next decade, it by no means disappeared.[1] Indeed, levels of public support for environmental protection remained surprisingly, strong in the face of energy crises, economic downturns, and tax revolts. As a result, by the early 1980s it was common for public opinion analysts to describe environmental quality as an "enduring" concern of the American public.[2]

One of the most detailed reviews of public opinion on environmental issues appeared in *Environment* five years ago. In it Richard Anthony concluded that "it appears that environmental protection, like issues such as health care and education, has become one of the lasting concerns of the public." [3] Anthony went on, however, to raise questions about the strength or intensity of Americans' concern with environmental quality, specifically, the importance of environmental protection as a political issue. While Anthony suggested that environmental issues were becoming increasingly partisan, with Democrats being rated much better than Republicans on environmental protection, he questioned whether such issues would have anywhere near the electoral impact of economic matters.

Ending in early 1982, Anthony's review of environmental opinion data was completed before the scandal involving top officials at the Environmental Protection Agency (EPA) and the James Watt controversy pushed the Reagan administration's environmental policies into the national spotlight.[4] Examining public opinion on environmental issues during the rest of the Reagan era is important not only to bring our understanding of public support for environmental quality up to date, but also to assess

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Footnotes at end of article.

the administration's possible impact on the public's view of environmental protection. Has the president been successful in convincing the public that environmental and other governmental regulations should be eased in pursuit of economic growth, or has his administration's controversial record on environmental protection led to renewed public concern with environmental quality? If the public has become more concerned about environmental quality in recent years, is it due to the Reagan administration's weak record on environmental protection (as portrayed by the media and environmentalists) or to increased societal awareness of environmental hazards such as toxic contamination of water supplies? Finally, does the evidence suggest that environmental quality is becoming a more potent political issue in our society? An update of Anthony's analysis may help provide answers to these questions.

REAGAN'S ENVIRONMENTAL POLICIES

Even before its January 1981 inauguration, the Reagan administration was viewed with suspicion by environmentalists because of its emphasis on deregulating the economy and encouraging growth.[5] The suspicion quickly turned to opposition as environmentalists accused the administration of failing to enforce environmental regulations and of ignoring environmental preservation in pursuit of energy and economic development. Environmental organizations helped stimulate media attention to President Reagans' environmental policies during his first year in office, and the scrutiny intensified greatly with the Superfund scandal at EPA in late 1982 and early 1983 (leading to Administrator Anne Burford's resignation in March 1983) and intermittent controversies involving Department of the Interior Secretary James Watt (culminating in his October 1983 resignation).[6]

In the face of continuing criticism, the Reagan administration defended its environmental policies in terms of its "electoral mandate," arguing that the president's landslide victory was evidence of voter approval of his goal of revitalizing the economy by freeing it from governmental regulations. The president was a vigorous spokesman for his policy of deregulation and took particular aim at environmental regulations. Was he successful in convincing the public that environmental protection efforts needed to be relaxed in order to promote economic prosperity?

TRENDS IN PUBLIC OPINION

Trend data for national opinion on six environment-related items provide good indicators of the public's level of support for environmental protection (see graphs on pages 6 and 7). All but two of the items were used in the 1970s, and results from the last decade are reported in order to provide a context for evaluating recent trends. In each case the most recently available data are reported, but to save space only the "pro-" and "anti-environment" response categories are noted—with the "don't know" and neutral categories omitted. A simple but consistent yardstick, the percent different between the two polar responses, is used to evaluate trends in environmental opinion.

The first item, used by the Roper Organization between 1973 and 1982, forced respondents to choose between "adequate energy" and "protecting the environment" (see also Figure 1 on this page).[7] The public was evenly split in 1973, but over the rest of the decade the percentage opting for adequate energy generally (with the exception of 1976) increased—a reflection of the energy supply problems. In fall 1980 energy adequacy had a 9 percent margin over environmental protection, 45 versus 36 percent. The situation quickly reversed under the Reagan administration, however. By September 1982 (less than two years after Reagan took office) there was a 10 percent increase in those choosing environmental protection and a similar decrease in those preferring adequate energy. The 46 percent siding with environmental protection in 1982 is the highest figure recorded for this item, and the 11 percent margin it enjoyed over energy adequacy matches the previous high point of 1976 (an anomalous year in terms of long-term trends). These results are particularly impressive because a major theme of the early Reagan administration was that environmental regulations needed to be relaxed in order to encourage the increased energy production necessary for strong economic growth.

A second Roper Organization item, also used beginning in 1973, provides an even more direct indicator of the public's evaluation of the administration's environmental policy agenda.[8] It asked respondents whether environmental protection laws and regulations "have gone too far, or not far enough, or have struck about the right balance" (see Figure 2 on this page). The results suggest that the public quickly disagreed with the administration's contention that such laws and regulations had gone too far. After gradually declining throughout the 1970s and reaching a low point of only 5 percent in 1979, the margin between those indicating "not far enough" and "too far" began to increase in the first year of the Reagan administration. By 1982 the 37 percent supporting additional environmental protection exceeded the previous high of 34 percent in 1973, while the 21 percent margin by which that position was favored over support for less environmental protection equalled the margin in 1973. In 1983, the last year the item was used, the percentage indicating that environmental regulations had not gone far enough jumped to 48 percent, while the precentage indicating that such regulations had gone too far dropped to 14 percent, nearly matching the previous low of 13 percent in 1973. These results clearly suggest that Reagan was unsuccessful in convincing the American public that environmental regulations had become excessive and needed to be relaxed.

The third item, a spending item used by the National Opinion Research Center (NORC) from 1973 up to the present, is also quite relevant because budget cuts for environmental agencies have been a controversial aspect of the administration's deregulation strategy.[9] It asks respondents whether we are "spending too much, too little, or about the right amount" on "improving and protecting the environment" (see Figure 3 on page 10).[10] Support for increased spending on environmental protection slowly declined throughout the 1970s, although by 1980 the percentage indicating "too little" was being spent in the area still greatly exceeded the percentage indicating "too much" was being spent—48 versus 15 percent. The gap between the two positions widened in 1982, and by 1984 it reached 51 percent, matching the 1974 level and nearing the previous high of 54 percent in 1973. The figures have remained virtually the same for the past two years. The overwhelming support for increasing rather than lowering environmental spending is impressive, in view of the substantial amount already spent on environmental protection in the last two decades, and is at odds with the administration's budgetary restrictions for environmental programs.

The fourth item, which Cambridge Reports began using in 1976, poses a tradeoff between economic growth and environmental quality. It asks respondents whether we must "sacrifice environmental quality for economic growth" or vice versa (see Figure 4 on page 11).[11] The first year the public was almost twice as likely to prefer sacrificing economic growth for environmental quality rather than the opposite (38 versus 21 percent), but by 1979 the gap narrowed to only 5 percent (37 versus 32 percent). In the first year of the Reagan administration, the percentage preferring that economic growth be sacrificed rose to 41 percent, a new high, while the percentage opting to sacrifice environmental quality dropped to 26 percent, producing a margin that nearly equalled the 1976 level. Despite surprisingly large fluctuations over the next three years, the 1984 results were nearly identical to those for 1981. The next two years, however, saw a sharp rise in the preference for sacrificing economic growth on behalf of environmental quality and a modest decline in the opposing preference. The result is that last year the public was nearly three times as likely to favor pursuing environmental quality over economic growth as the opposite (58 versus 19 percent), a margin that considerably exceeded the 1976 gap. The public's preferences in this regard are clearly at odds with the administration's priorities.

A CBS News/ New York Times poll began using the fifth item in September 1981, by which time the Reagan administration was under attack from environmentalists (especially for its agency appointments) but before its environmental policies had become the object of intense media attention via the Watt and EPA controversies.[12] This item asks respondents to react to an extreme pro-environment position—that environmental protection standards "cannot be too high" and that environmental improvements should be pursued "regardless of cost" (see Figure 5 on page 32).[13] The public was almost evenly divided on the issue in 1981, but a year later those agreeing held an 11 percent margin (52 versus 41 percent) over those disagreeing with this extreme position. By April 1983 the gap had more than doubled to a 23 percent margin, and in January 1986 it reached nearly 40 percent (66 versus 27 percent). That two-thirds of the public gave verbal support to such a staunch pro-environment position indicates strong disagreement with the Reagan administration's policy of emphasizing the economic costs of environmental regulations.

The final item was not used by Cambridge Reports until March 1982. Like the second Roper item, it provides a good indicator of public reaction to the Reagan administation's overall environmental policy agenda, asking respondents if they think "there is too much, too little, or about the right amount of government regulation and involvement in the area of environmental protection?" (see Figure 6 on page 33).[14] From the outset the public clearly rejected the administration's contention that environmental regulations were excessive (by a margin of 35 to 11 percent), and this view has become more pronounced over the years. By last year the public overwhelmingly indicated that it thought there was "too little" rather than "too much" governmental regulation for environmental protection (59

versus 7 percent). These results, along with those for the NORC spending item, indicate that in 1986 the public was nearly 10 times as likely to see a need for increased governmental efforts and spending on behalf of environmental protection as to take the opposite view. The public appears to view the need for environmental regulations quite differently than does the Reagan administration.

Taken together, the six sets of data reported in the graphs and individual figures provide a consistent view of recent trends in public support for evioronmental protection. After declining moderately from the early to late 1970s, public support for environmental protection began to rise shortly after Reagan took office and has continued to do so. The current level of support appears to exceed that fund in the early to mid-1970s, except in the case of the NORC spending item, where 1986 support for increased environmental spending is comparable to the 1973–1974 level.

In general, it appears fair to conclude that, after suffering deterioration in the late 1970s, environmental quality has again become a "consensual" issue—as it was in the early 1970s.[15] A majority of the public supports increased environmenal protection efforts, and a huge majority appears opposed to weakening current efforts, judging from the small percentages indicating that current efforts should be reduced relative to those who support increased efforts or at least support maintaining the status quo (the "neutral" categories for each item). The only possible exception is in the case of energy-environment tradeoffs: in 1982 slightly over a third of the public favored ensuring an adequate supply of energy even if doing so entailed "taking some risks with the environment." However, in view of the trends observed with the other items and given the current situation of ample energy (at least in the eyes of the consumer), it seems likely that current support for energy adequacy versus environmental quality would be much less than it was in 1982.

In sum, the available data consistently indicate a significant upturn in public concern for environmental quality during the Reagan presidency. Even though the public seems to be sympathetic to the idea that government has become too big in recent years, Reagan has obviously failed to convince the public that environmental protection regulations need to be curtailed in order to achieve economic prosperity. Indeed, the administration's environmental policies and practices seem to have produced the opposite effect.

EXPLAINING THE UPTURN

Although it is tempting to attribute the dramatic upturn in public support for environmental protection to a reaction against the Reagan administration's environmental record,[16] caution is required. First, it needs to be demonstrated that the public has been aware of the administration's controversial record on environmental protection *and* evaluates it negatively. Second, consideration needs to be given to alternative contributors to the upturn, such as the growing attention paid to toxic wastes and other environmental hazards.

Reaction to Reagan

Writing in early 1982, Anthony cited a September 1981 CBS News/New York Times poll that found 50 percent of the public saying "they trusted Ronald Reagan to 'make the right kind of decision on the environment,'" versus 33 percent not trusting the president. Also, three-fourths of the public "didn't know enough" to have an opinion on Watt.[17] However, the visibility and unpopularity of the administration's environmental policies were increasing rapidly, and a January 1982 Gallup/Newsweek poll found 37 percent to "approve" but 40 percent to "disapprove" of Reagan's "handling of environmental protection."[18]

The public's awareness of the administration's controversial environmental record no doubt increased substantially in 1983, when the EPA and Watt controversies reached their peaks. A Harris poll in March 1983 found 74 percent saying they had "heard or read about" the congressional investigations of EPA. That same poll found a majority agreeing that Democratic allegations against EPA officials were justified and found a large majority giving the president negative ratings on environmental matters. Specifically, only 24 percent gave the president a positive ("excellent" or "pretty good") rating on "his handling of the congressional investigations of the Environmental Protection Agency," while 68 percent gave him a negative ("only fair" or "poor") rating. The rating was even worse on a more general item, "his handling of environmental cleanup matters," with 21 percent positive versus 74 percent negative.[19] As the EPA scandal began to subside with the resignation and replacement of Anne Burford by William Ruckelshaus, Watt continued to attract growing attention and criticism. An ABC News/Washington Post poll in April 1983 found the percentage of the public that "didn't know enough" to have an opinion on Watt to be down to 57 percent, well under the three-fourths cited in the late 1981 poll and probably quite low for a cabinet officer. [30] More important, in October—shortly after Watt's indiscreet characterization of a coal advisory panel created a furor—a Harris poll found 65 percent favoring and only 29 percent opposing his ouster.[21]

The negative image of the Reagan administration's environmental policies formed during its first two stormy years (an image encouraged by environmental organizations) has persisted to a considerable degree, despite the lower profiles of Ruckelshaus and Lee Thomas at EPA and William Clark and Donald Hodel at the Interior Department. A Harris survey conducted in late 1984 and early 1985 found that Reagan's "positive" rating on "environmental cleanup matters" had increased to 34 percent, but his negative rating had dropped only to 63 percent.[22] Similarly, a September 1984 Harris survey focusing on the perceived failures and successes of Reagan's first term found 50 percent labeling his "enforcement and strengthening of controls on air and water pollution and toxic wastes" a "failure" and only 33 percent calling his efforts a "success." [23]

It seems fair to conclude that the public was aware of and generally disapproved of Reagan's environmental policies early in his administration, and that the growth of this awareness and disapproval coincided with the significant increases in public support for environmental protection during 1982 and 1983 (see graphs). This certainly gives credence to the idea that the upturn was at least in part a public backlash against what was perceived to be the administration's weakening of environmental protection efforts.[24] At the same time, the fact that the upturn has persisted well past the EPA and Watt controversies, and the subsequent decline in media scrutiny of the administration's environmental policies, suggests that it is not simply a reaction against Reagan.

Other contributors to the upturn

Another possible reason for the upturn is that, because of the efforts of scientists, environmentalists, and the media, the public has come to view environmental problems in the 1980s as increasingly serious threats to human health and well-being. Although there seem to be no hard data for documentation, it reasonable to assume that since the late 1970s the public has heard more and more about problems such as toxic wastes, acid rain, ozone depletion, and the greenhouse effect. These problems typically pose more serious threats to humans than did the major environmental issues of the 1960s and early 1970s—wilderness and wildlife preservation, litter and other visual pollution, and even most instances of air and water pollution. The growing attention to the environmental hazards of the 1980s has probably offset awareness of successful pollution cleanups, and created the perception that environmental conditions are deteriorating and threatening human welfare.

There is surprisingly limited information on public perceptions of environmental conditions during the 1980s, especially trend data, because pollsters have instead concentrated on measuring "support for environmental protection." There are, however, bits of evidence to support the contention that the public considers current environmental problems to be more pressing than before. In 1981 and again in 1985, Harris gave national samples a list of environmental problems and asked repsondents if each "is currently a very serious problem, a somewhat serious problem, only a small problem, or no problem at all in this country." Over the four years the percent indicating "very serious" rose noticeably for three of the problems: from 60 to 74 percent for "disposal of hazardous wastes," from 60 to 69 percent for "pollution of lakes and rivers by toxic substances from factories," and from 30 to 38 percent for "pollution from acid rain." [25]

A similar trend was found by Cambridge Reports for an environmental issue that hits very close to home for most people; water contamination. In four national surveys between 1981 and 1985, Cambridge asked the following question:

There are a lot of sources of underground water in the United States. Some people say many of these sources are contaminated with chemicals and other pollutants. Do you think most underground sources of water are contaminated, as many underground sources are contaminated as are uncontaminated, not very many are contaminated, or none are contaminated?

The percentages indicating either "most" or "as many are as are not" steadily rose from 28 percent in 1981, to 29 percent in 1983, to 37 percent in 1984, and to 40 percent in 1985.[26] That such a large proportion of Americans believes that half or more of our underground water sources are contaminated reflects the degree to which pollution is now seen as a serious threat to humans.

These trends in the perception of environmental hazards are consistent with nonlongitudinal (cross-sectional) data on perceived changes in water quality. In a 1982 survey, for example, Harris asked respondents, "Compared to ten years ago, would you say the streams, lakes, and rivers in your area are more polluted than they were, less polluted, or about the same as they were then?" Despite a good deal of progress in cleaning up the nation's waterways during

the 1970s, 46 percent replied "more polluted" and only 19 percent said "less polluted." [27] Furthermore, the public sees continued environmental deterioration in the future. When Harris asked the same question about pollution of streams, lakes, and rivers "ten years from now," 44 percent responded that the waters would be "more polluted," and only 17 percent indicated "less polluted." [28]

Given these perceptions of declining water quality, it should not be surprising that when Harris also asked in 1982, "Do you think that federal water pollution standards are overly protective of people's health, not protective enough, or just about right?" only 4 percent chose "overly protective," while 59 percent indicated "not protective enough" (with 34 percent indicating "just about right" and 3 percent "not sure"). Earlier, in a May 1981 Harris survey using the same item, only 48 percent chose "not protective enough," indicating an 11 percent increase in this view during a year and a half of the Reagan administration.[29] Harris found a similar pattern when he asked for opinions about the Clean Water Act (up for renewal) with the following item:

This year Congress will reconsider the Clean Water Act. Given the costs involved in cleaning up the environment, do you think Congress should make the Clean Water Act stricter than it is now, keep it about the same, or make it less strict?

In May 1981, 52 percent said "make it stricter," 41 percent said "keep it about the same," and only 4 percent said "make it less strict" (with 3 percent "not sure"). By fall 1982 the percent wanting the Clean Water Act made stricter grew to 60 percent, with 34 percent wanting it the same, and 3 percent wanting it made less strict.[30]

Evidence of increased support for government protection of water quality points to another crucial factor underlying the upturn in public support for environmental protection—the public definitely sees government as having the responsibility for protecting environmental quality. This point is made explicit in a May 1981 survey by the Opinion Research Corporation, conducted shortly after the Reagan administration took office. Respondents were read a "list of areas in which government might play a role," and asked if "government should play a major role, a minor role, or no role at all" for each area. When it came to "protecting the environment," 73 percent said government should play a "major role," 23 percent said a "minor role," and only 3 percent said "no role at all" (with 2 percent indicating "don't know"). The same poll found similar results when it asked if protecting the environment should be made more public or more private: 62 percent indicated "more public," 25 percent indicated "about as is," and only 8 percent indicated "more private" (with 2 percent indicating "don't know").[31] These preferences are clearly at odds with the Reagan administration's deregulation emphasis, and suggest that at the outset the administration's goal of easing environmental regulations was incompatible with public preferences.

A complex interaction

The foregoing results, while admittedly not conclusive, suggest that during the 1980s the pulic views environmental problems—especially those involving toxic and other hazardous wastes—as representing increasingly serious threats, and is looking to the government for protection. In this context it is not surprising that the public reacted negatively to the Reagan administration's perceived efforts to weaken environmental regulations and their enforcement, or that the public felt the need to express increased support for environmental protection. Thus the significant upturn in public support for environmental protection during the 1980s is the product of a complex interaction: at the same time the environmental appeared to be becoming more hazarous (because of the attention given to toxic wastes and other hazards), the public was losing trust in the traditional guardian of its welfare, the government. The public's recourse was to state, even more emphatically, its continued support for environmental protection.

THE POLITICAL IMPACT

The public had, of course, an avenue for rejecting President Reagan's handling of environmental protection in November 1984, yet it nonetheless reelected him by a landslide. The election highlights Anthony's point that "the polls do not offer much guidance in trying to assess the potential political impact of the environmental issue." [32] Given the pro-environment options at the time (see graphs), one wonders if the electorate had somehow forgotten or forgiven Reagan's environmental misdeeds by late 1984.

This seems unlikely. Shortly after the election a Harris poll not only found the public giving the president the poor rating on his "handling of environmental cleanup matters" noted previously (63 percent negative versus 34 percent positive), but also found that only 30 percent expected him to do "a better job" on environmental cleanup in his second term, while 60 percent felt he would do "about what he did before," and 7 percent expected him to do "a worse job." [33] Similarly, a February 1985 Gallup poll found that 33 percent believed "the environmental situation" had become much or somewhat worse "as a result of Reagan policies," and only 22 percent believed it had gotten much or somewhat better (while 33 percent believed it had stayed the same and 12 percent had no opinion).[34] Finally, throughout the campaign, polls found Walter Mondale being rated much more favorably than Reagan on environmental protection.[35]

Gauging electoral impact

Does Reagan's landslide re-election in the face of his poor environmental ratings indicate that environmental issues are of no consequence politically? An affirmative answer would be unwise, as it is expecting a great deal to believe that a poor record on environmental protection would have harmed an immensely popular president riding the crest of an economic revival.[36] In fact, data suggest that Reagan's rating were tied closely to the performance of the economy.[37] There is, however, additional evidence that directly casts doubts on the political significance of environmental issues.

At the time Anthony was writing, Louis Harris was beginning to attract considerable attention for his inferences (from his survey results) about the political impact of environmental quality. As Anthony noted, in a February 1982 survey, Harris found 15 percent of those polled indicating that they probably would not vote for a congressional candidate whose views on "controlling air and water pollution" disagreed with their own, even if they mostly agreed with the candidate on other issues. Further, since 13 percent held pro-environment views and only 2 percent held anti-environment views, Harris concluded that environmental issues represented a potential swing vote of 11 percent—ranking it third among nine issues examined.[38] Harris' assertions subsequently attracted a good deal of criticism, including a scathing attack by the political scientist Everett Carll Ladd. Ladd's interpretation was that the 15 percent indicating a candidate's stand on pollution control would probably influence their vote ranked environment eighth out of the nine issues (well below abortion, with 32 percent, and barely above affirmative action programs, with 14 percent), suggesting—contrary to Harris—the limited electoral impact of environmental issues.[39]

Additional evidence on the voting impact of environmental issues would seem to support Ladd. In September 1982 a CBS News/*New York Times* poll asked a sample of registered voters, "Is there any *one* issue that is so important to you that you would *change* your vote because you disagreed with a candidate's position on that single issue?" The 48 percent who replied "yes" were then asked to name the issue, and environment was one of several issues cited by only 1 percent, well below the 16 percent mentioning economic issues and the 7 percent citing abortion. CBS News/*New York Times* also conducted an exit poll after the November 1982 election and asked voters, "Which of these issues were most important in deciding how you voted for the U.S. House?" Although voters were allowed to check two of the nine issues listed, only 3 percent checked "the environment," ranking it last on the list.[40]

While these results suggest that there is unlikely to be a large bloc of environmentalist "single-issue" voters, which no analyst other than Harris has claimed to exist, they are also important because they provide insight into the strength or intensity of public support for environmental protection. Environmental opinion analysts have typically tried to judge the intensity of pro-environment opinions by using items posing tough tradeoffs between environmental quality and energy adequacy or economic growth (the first and fourth items graphed), or by examining the frequency with which the public "strongly" or "definitely" favors environmental protection.[41] However, recent research on attitude measurement suggests that whether people feel strongly enough about an issue to have it affect their voting behavior is a better indicator of attitude strength.[42] This research implies that the above results on the limited electoral impact of environmental issues (particularly relative to economic issues) indicate that support for environmental protection is not as strong as the tradeoff responses suggest.

While the foregoing helps account for the negligible political damage caused by Reagan's poor environmental record, readers should not conclude that environmental issues have *no* political significance. First, environmental activists can provide significant resources such as labor and money to political campaigns.[43] Through such support, environmentalists frequently claim to have affected the outcome of targeted campaigns.[44] Second, in some campaigns environmental issues are so important they clearly affect the outcome. For example, Brock Adams's (D-Wash.) startling upset of Slade Corton (R-Wash.) in the 1986 election for the U.S. Senate is commonly attributed to Adams's staunch opposition to having the nation's first permanent nuclear waste repository located in Washington—a position shared by an overwhelming majority of state residents. It is easy to envision how

state and local campaigns might be heavily influenced by local environmental issues, such as the proposed location of a toxic waste site or even a less-hazardous garbage landfill. These two points suggest that being seen as against the environment may well constitute a political liability for many candidates and make the difference in some elections, even if not to the degree implied by Harris.[45] Finally, it should be emphasized that referenda and initiatives designed to protect environmental quality have generally fared well at the ballot box over the years, with election results more closely approximating the pro-environment sentiment reflected in the survey data reviewed earlier.[46]

Permissive consensus

Two additional points are helpful in reconciling the strong public support for environmental protection reflected in the polls with the evidence (admittedly limited) of the minimal electoral impact of environmental issues. First, for most voters numerous factors enter into the evaluation of candidates, and to expect environmental stances to consistently weigh heavily is asking a great deal. Second, the near-consensual support given by the public to environmental protection appears to constitute what public opinion analysts term a "permissive consensus." [47] In such situations of widespread but not terribly intense public support for a goal, government has considerable flexibility in pursuing the goal and is not carefully monitored by the public (unlike the situation surrounding core economic goals such as low inflation and unemployment rates). It is only when government policy becomes obviously out of tune with the public consensus that the government risks political reprisals. This is precisely what occurred during the first two years of the Reagan administration, as Watt's outspokenness and the EPA scandal attracted enough attention to highlight the discrepancy between Reagan's environmental policies and the public's goal of achieving environmental quality.[48]

Organized environmentalists, already opposed to Reagan's policies, certainly led the charge against the administration. However, it is clear that they were able to mobilize people who were previously inactive on environmental issues to join their organizations, sign petitions, write and call officials, and take other actions to protest the administration's efforts to weaken environmental regulations (see box on page 35). In light of this active opposition, as well as opinion polls showing widespread displeasure with Reagan's environmental record, the administration began to fear political damage. It therefore jettisoned Watt and top EPA officials in order to signal that it was changing course on the environment. The degree to which its policies and practices actually changed is a matter of debate, but clearly the administration was forced to temper its environmental initiatives to some degree.[49] Had it *not* done so—that is, had Watt and Burford and others been retained—it is possible that the president would have suffered significant damage. The pro-environment consensus is "permissive," but would probably not tolerate a blatant rejection of its goal of environmental protection.

At a minimum, the public outcry against Reagan's policies strengthened the hand of Congress in its efforts to combat the administration on environmental issues. In fact, the broad consensus on behalf of environmental protection revealed in the polls (and Harris's predictions about the political costs of ignoring that consensus) was prominently used in congressional hearings on the Clean Water Act and Clean Air Act.[50] And, as Anthony pointed out, public support for environmental protection is vital when it helps convince policymakers "that relaxing environmental safeguards is politically dangerous." [51] Still, the fact that the president was able to challenge this consensus yet avoid noticeable punishment at the ballot box emphasizes that the consensus in support of environmental quality is more "permissive" than that supporting intensely held economic goals.

OPINION AND ACTION

Public opinion on environmental issues in the 1980s reveals both good news and bad news for those concerned about environmental quality. The good news is that public support for environmental protection has not only survived Reagan but has apparently been strengthened by the challenge posed by his administration. While its electoral importance remains ambiguous, the public consensus behind environmental protection nonetheless constitutes a significant political resource for lobbying and, more generally, influencing public officials. The bad news is that, as Anthony surmised, the staunch pro-environment responses to opinion polls do not translate directly into pro-environment votes and political action.

Environmental problems will probably become more potent political issues as they become increasingly viewed as threatening public health. But is is likely that (numerous exceptions to the contrary) public concern over basic economic conditions will typically outweigh concern about environmental quality in the ballot booth—survey responses to environment-economy tradeoffs notwithstanding!

FOOTNOTES

[1] R.E. Dunlap, "Public Opinion: Behind the Transformation," *EPA Journal*, July/August 1985, 15–17. For a more comprehensive review of 1965–1985 trends see R.E. Dunlap, "Public Opinion and Environmental Policy," in J.P. Lester, ed., *Environmental Politics and Policy: Theories and Evidence* (Durham, N.C.: Duke University Press, in press).

[2] R. C. Mitchell, "Public Opinion on Environmental Issues," in Council on Environmental Quality, *Environmental Quality: The Eleventh Annual Report of the Council on Environmental Quality* (Washington, D.C.: U.S. Government Printing Office, 1980); E. C. Ladd, "Clearing the Air: Public Opinion and Public Policy on the Environment," *Public Opinion*, February/March 1982, 16–20.

[3] R. Anthony, "Polls, Pollution and Politics: Trends in Public Opinion on the Environment," *Environment*, May 1928, 19.

[4] R. Thompson, "Environmental Conflicts in the 1980s," *Editorial Research Reports*, 15 February 1985, 123–44; for more detail see P. R. Portney, ed., *Natural Resources and the Environment: The Reagan Approach* (Washington, D.C.: Urban Institute Press, 1984); N. J. Vig and M. E. Kraft, eds., *Environmental Policy in the 1980s: Reagan's New Agenda* (Washington, D.C.: CQ Press, 1984).

[5] C. Holden, "The Reagan Years: Environmentalists Tremble," *Science* 210(1980):988–89, 991.

[6] Friends of the Earth, *Ronald Reagan and the American Environment* (San Francisco: Friends of the Earth Books, 1982); A. Szasz, "The Process and Significance of Political Scandals: A Comparison of Watergate and the 'Sewergate' Episode at the Environmental Protection Agency," *Social Problems* 33(1986): 202–17; R. M. Cawley and W. Chaloupka, "James Watt and the Environmentalists: A Clash of Ideologies," *Policy Studies Journal* 14(1985):244–54.

[7] Results provided by The Roper Center, University of Connecticut; also available in J. M. Gillroy and R. Y. Shapiro, "The Polls: Environmental Protection," *Public Opinion Quarterly* 50(1986):270–79. Results are from September-October surveys in each year. The Roper polls, and all other polls reported in this article unless noted otherwise, used representative samples of at least 1,200 U.S. adults—resulting in 95 percent confidence intervals of no more than ± 3 percent.

[8] Ibid.

[9] R. V. Bartlett, "The Budgetary Process and Environmental Policy," in Vig and Kraft, eds., note 4 above; Friends of the Earth, note 6 above.

[10] National Opinion Research Center, *General Social Surveys, 1972–1986: Cumulative Codebook* (Chicago: National Opinion Research Center, 1986). Results through 1985 also in Gillroy and Shapiro, note 7 above. In 1984 the item was shortened to "the environment" for subsamples, but since the effect was minimal I report results for the total sample. See Dunlap, in Lester, ed., note 1 above.

[11] Results for 1982 to 1986 from Cambridge Reports, Inc., "Paying for Environmental Quality," *Bulletin on Consumer Opinion*, no. 112, 1986; earlier results from Gillroy and Shapiro, note 7 above.

[12] F. Lyman, "The Invasion of the Eco-snatchers," *Environmental Action*, April 1981, 16–18.

[13] Results from Gillroy and Shapiro, note 7 above.

[14] Cambridge Reports, Inc., note 11 above. Results through 1985 also in Gillroy and Shapiro, note 7 above.

[15] But it should be noted that the environment did not reemerge in Gallup's list of volunteered "most important problems" (from which it disappeared in 1973) nor did it rise in Roper's list of "personal concerns," even during the EPA and Watt controversies, suggesting that environmental problems have low salience for most people. See Dunlap, in *EPA Journal* and Lester, ed., note 1 above; R. C. Mitchell, "Public Opinion and Environmental Politics in the 1970s and 1980s," in Vig and Kraft, eds., note 4 above.

[16] Mitchell, note 15 above.

[17] Anthony, note 3 above, 33.

[18] D. A. Alpern, "Polarizing the Nation?" *Newsweek*, 8 February 1982, 33–34. Sample size is 1,009; confidence intervals are ± 4 percent.

[19] *The Harris Survey*, no. 24, 24 March 1983; also see Mitchell, note 15 above, 57.

[20] Mitchell, note 15 above, 56.

[21] *The Harris Survey*, no. 82, 13 October 1983.

[22] *The Harris Survey*, no. 6, 21 January 1985; for additional evidence of Reagan's negative ratings on environmental issues see Mitchell, note 15 above, 57, and J. L. Goodman, Jr., *Public Opinion during the Reagan Administration* (Washington, D.C.: Urban Institute Press, 1983), 36.

[23] *The Harris Survey*, no. 86, 8 October 1984. Results based on 1,326 "likely voters" from a total sample of 2,121.

[24] Dunlap, in *EPA Journal*, note 1 above; Mitchell, note 15 above, 57.

[25] *The Harris Survey*, no. 26, 1 April 1985.

[26] Cambridge Reports, Inc., "Emerging Environmental Concerns and Controversies," *Bulletin on Consumer Opinion*, no. 103, 1986, 35.

[27] Louis Harris and Associates, Inc., *A Survey of American Attitudes toward Water Pollution* (New York: Louis Harris and Associates, 1982), 26.

[28] Ibid., 27.

[29] Ibid.

[30] Ibid., 28. Cambridge Reports, Inc., subsequently reported continued increases in support of making both the Clean Water Act and the Clean Air Act "more strict" between 1982 and 1985. For the former the figures increased from 45 to 59 percent, and for the latter they increased from 38 to 53 percent. See Cambridge Reports, Inc., note 26 above, 16–17.

[31] Results reported in the Roper Center, *American Public Opinion and Public Policy on the Environment* (Storrs, Conn.: The Roper Center, University of Connecticut, 1983), 36–37.

[32] Anthony, note 3 above, 19.

[33] *The Harris Survey*, no. 7, 24 January 1985.

[34] *The Gallup Report*, no. 235, April 1985, 15.

[35] *The Harris Survey*, no. 80, 20 September 1984; *The Gallup Report*, nos. 228–229, August/September 1984.

[36] Reagan had particularly high ratings on inflation and defense, and high ratings on unemployment and "respect for U.S. abroad." See *The Gallup Report*, note 34 above, 4.

[37] Goodman, note 22 above.

[38] *The Harris Survey*, no. 20, 11 March 1982; also see Louis Harris, "American Attitudes toward Clean Water" (Testimony before the Subcommittee on Environmental Pollution, Committee on Environment and Public Works, U.S. Senate, 15 December 1982); Anthony, note 3 above, 20.

[39] Ladd, note 2 above; Ladd also apparently wrote the more detailed Roper Center critique cited in

note 31 above. For an excellent review of the debate between Harris and Ladd, see Mitchell, note 15 above, 64–67.

[40] Goodman, note 22 above, 12; The Roper Center, note 31 above, 21–22.

[41] For examples, see Anthony, note 3 above; Dunlap, in *EPA Journal*, note 1 above; Mitchell, note 2 above.

[42] H. Schuman and S. Presser, *Questions and Answers in Attitude Surveys* (New York: Academic Press, 1981), chap. 9; for a more detailed examination of the intensity and salience of environmental opinions see Dunlap, in Lester, ed., note 1 above.

[43] Mitchell, note 15 above, 67–70.

[44] S. Ades, "The Environment Wins," *Environmental Action*, January/February 1987, 17–19.

[45] Anthony speculated at length as to whether being a Republican would constitute a liability because of the party's poor ratings on environmental issues. Even though Democrats continue to receive better ratings on environmental protection, it does not appear that Reagan's weak environmental record is automatically generalized to all Republican candidates. See *The Harris Survey*, no. 30, 5 May 1986, for recent ratings of the two parties on environmental protection.

[46] L. M. Lake, "The Environmental Mandate: Activists and the Electorate," *Political Science Quarterly* 98(1983):215–33; *National Journal*, 15 November 1986, 2793.

[47] J. C. Pierce, K. M. Beatty, and P. R. Hagner, *The Dynamics of American Public Opinion* (Glenview, Ill.: Scott, Foresman & Co., 1982), 19; also see The Roper Center, note 31 above, 41.

[48] Goodman, note 22 above, 36; Mitchell, note 15 above.

[49] Thompson, note 4 above; Portney, ed., note 4 above; Vig and Kraft, eds., note 4 above.

[50] Mitchell, note 15 above, 67–70; The Roper Center, note 31 above, 14–23; Ladd, note 2 above, 16–17.

[51] Anthony, note 3 above, 19.●

IN RECOGNITION OF THE CONGRESSIONAL MEDAL OF HONOR SOCIETY

Mr. WILSON. Mr. President, on December 9, 1861, Senator James W. Grimes of Iowa, chairman of the Naval Affairs Committee, proposed that "medals of honor" be prepared to commemorate acts of military bravery performed above and beyond the call of duty. President Abraham Lincoln signed the public resolution into law on February 12, 1862 and since that time 3,393 men and 1 woman have been honored with the United States of America's highest military decoration for bravery.

There is no greater distinction or military award in the armed services. It is granted for deeds of personal bravery, clearly demonstrating gallantry, self-sacrifice and risk of life, proven by uncontestable evidence.

There are approximately 230 living recipients of the Congressional Medal of Honor from World War I, World War II, the Korean war and the Vietnam war. They exemplify gallantry and intrepidity, and their badges of valor labeled them as American heroes to their fellow countrymen.

The members of the Congressional Medal of Honor Society and their guests will be gathering in Orange County, from November 12 through 15 for their biennial conference. I am very proud that this prestigious group has chosen California for its Fifteenth National Convention, and I know that my fellow Members of the Senate join me in a salute to the Congressional Medal of Honor Society on this auspicious occassion.

SALUTE TO REGION 9 RDC, AND TO TERRY STONE

Mr. DURENBERGER. Mr. President, when I served in the Governor's office in the late 1960's, one of Minnesota's proudest achievements was authorization of a system of Regional Development Commission throughout the State.

These "RDC's," as they came to be called, were multicounty agencies made up of local elected officials and other community leaders who were given responsibility for reviewing Federal and State grant applications, developing proposals on regional issues like transportation and economic development, and generally working to improve cooperation and coordination of governmental agencies in their areas.

Over the years, one of the most successful of these commissions has been the Region 9 Development Commission which serves a nine county area in southcentral Minnesota. This week, Mr. President, the Region 9 RDC is celebrating its 15th anniversary.

One indication of the success of Region 9 is the recognition it has received from the National Association of Development Organizations (NADO). At this year's NADO annual meeting, Region 9 received three "Innovation Awards" for projects completed in 1987. They included the St. Peter comprehensive plan, the Farmer to Farmer Conference, and the Leadership and Educational Training Conference.

For the second straight year, Region 9 received more awards than any other planning or development organization. In all, 30 organizations from around the country received NADO Innovation Awards.

I want to take this opportunity to formally recognize Region 9 for its 15 years of service to the citizens of southcentral Minnesota and for the outstanding leadership which is exemplified by the recognition it has received nationally.

No organization of this nature can succeed without active and dedicated lay leadership. Current Region 9 chairman John King, and past and present officers and board members of this fine organization have been important partners in its success.

But, without question, the biggest single factor in the success of Region 9 over the past 15 years has been its outstanding executive director, Terry Stone.

I take particular pride in the fact that Terry is a fellow graduate of St. John's University. As mayor of Madelia, Terry was one of the leading forces among local officials in establishing Region 9 in 1972. He served as chairman of the commission in 1975 and 1976 and was hired as its full-time executive director in October 1976.

Terry's strong and effective leadership has been felt well-beyond the boundaries of Region 9. At the recent annual conference of the National Association of Development Organizations, Terry was elected the organization's treasurer. He also serves as chairman of NADO's aging committee.

And, this year, Mr. President, Terry became the first Minnesotan to receive NADO's J. Ray Fogle Award. This coveted award is presented each year to a planning and economic development organization executive director for outstanding contributions, creating leadership and innovative management.

These are very challenging times in rural areas, Mr. President, but the presence of active organizations like Region 9—and the contributions of leaders like Terry Stone—give me great hope that rural America can continue to make the contributions to this country's values which have been so important in the past.●

TRIBUTE TO HON. PAUL J. WIDLITZ ON HIS RETIREMENT

● Mr. D'AMATO. Mr. President, it is with native pride to recognize for the record Justice Paul J. Widlitz on his retirement from the appellate term of the New York State Supreme Court. I am pleased to have this opportunity to congratulate him on this most memorable occasion and join with the citizens of New York State to thank him for his years of outstanding public service.

Justice Widlitz' distinguished career began in 1951 on the Nassau County District Court. In 1957, he was elected county judge, and served in this capacity until elevation to the State supreme court in 1961. An appointment to the Nassau County court eventually followed. He held the position of administrative judge from 1976–81. Finally, his most recent appointment—to the appellate term of the New York State Supreme Court for the 9th and 10th judicial districts—came in 1981.

Justice Widlitz' activities extend beyond the judicial sphere. He has held, and holds, several offices and activity participates in a wide array of community associations: president and chairman of the board of directors of the Hebrew Academy of Nassau County, a member of B'nai B'rith, the American Legion, Jewish War Veterans, and the bar associations of Nassau County and New York State, demonstrating more than just judicial leadership and commitment.

The court has benefited greatly from Justice Widlitz' knowledge and experience. He will be missed, but we are consoled by the certainty of his

continuing contributions and counsel to the people of my home Nassau County.

Thank you, Mr. President.●

TRIBUTE TO HON. THEODORE VELSOR ON HIS RETIREMENT

● Mr. D'AMATO. Mr. President, I rise today to pay tribute to a man of long and established distinction, Justice Theodore Velsor. After 25 years of outstanding service on the court, Justice Velsor will retire this year from the New York State Supreme Court. In view of this, it is indeed appropriate to congratulate Justice Velsor on his retirement and commend him on a most distinguished career.

Justice Velsor has served Nassau County and New York for the past 37 years in many capacities. In 1950, he became deputy county attorney of Nassau County and held that position until 1961. He became a deputy town attorney for the town of Oyster Bay a year later and served there until his elevation to justice of the New York State Supreme Court in 1963.

An active participant in community events and an influential member of a number of clubs and associations—the Bar Association of Nassau County, the New York State Bar Association, and the Association of Supreme Court Justices to name but a few—Justice Velsor's influence extends far beyond the court.

Justice Velsor's wisdom and years of experience have made an enormous contribution to the court. His impact on the community and its legal profession will endure, and his active participation be much missed.

Thank you, Mr. President.●

TRIBUTE TO THE HONORABLE JAMES F. NIEHOFF ON HIS RETIREMENT

● Mr. D'AMATO. Mr. President, I rise today to extend my most sincere congratulations to Justice James F. Niehoff on his retirement from the appellate division of the supreme court of New York State.

Remarkably and tellingly, Justice Niehoff came to the New York State Supreme Court in 1973 as a candidate of both the Republican and Democratic parties after previously serving as judge of the first and second district courts of Nassau Country. In December of 1981, Governor Carey appointed him to his current post on the appellate division of the supreme court, second department.

Justice Niehoff is an active and influential participant in Masonic and church associations, a member of the Association of Supreme Court Justices for the State of New York, and a member of the American Bar, New York State Bar, Nassau Country Bar, and protestant lawyers associations.

His extensive achievements are too numerous to count, and too well-known in his community to need recitation. His wisdom, experience, and judicial acumen have been demonstrated consistently throughout his career. We will remember his years on the supreme court, for he has made a difference.

Thank you Mr. President.●

PHYSICAL EDUCATION FOR ALL CHILDREN

● Mr. D'AMATO. Mr. President, I rise today in support of legislation to promote the healthy development of our Nation's children. Senate Concurrent Resolution 43, introduced by my distinguished colleague, Senator STEVENS, would do this by encouraging State and local governments and local educational agencies to provide quality physical education programs for all children from kindergarten through grade 12.

Recent studies by the President's Council on Physical Fitness and Sports have shown that our Nation's schoolchildren are failing to meet established physical fitness standards. Our youth are increasingly unable to measure up in basic tests of cardiorespiratory endurance, upper body strength, and flexibility.

This trend has serious implications for the long-term health of our children. As today's children reach adulthood, they are more likely than their predecessors to suffer from high blood pressure, diabetes, and heart disease. In fact, many experts are calling heart disease a pediatric disease because its risk factors—obesity and high blood cholesterol—are developing in so many of our children and youth.

The declining fitness of our children is also an impediment to their ability to learn. Physically inactive children often lack the mental alertness and enthusiasm for learning apparent in their physically active classmates. Yet, ironically, many schools have reduced or eliminated the time devoted to physical education programs.

The Surgeon General, in "Objectives for the Nation," has already called for an increase in the number of school-mandated physical education programs. By supporting Senate Concurrent Resolution 43, we can further underscore the importance of physical fitness programs for the healthy physical and mental development of our children. I encourage my colleagues to join me in supporting this needed legislation and I urge its immediate passage.●

ADMISSION BY JUDGE GINSBURG

Mr. DOLE. Mr. President, at 6 o'clock today W. Stephen Cannon, a spokesman for Judge Douglas Ginsburg, issued the following statement by Judge Ginsburg:

Earlier today, I was asked whether I had ever used drugs. To the best of my recollection, once as a college student in the sixties, and then on a few occasions in the seventies, I used marijuana. That was the only drug I ever used. I have not used it since. It was a mistake, and I regret it.

Mr. President, this statement was issued by Judge Ginsburg after a number of hours of meetings today with various people including a number of Republican Senators, and that statement in my view says it all.

I met with Judge Ginsburg last week and asked if he had any information that I needed to have. And since, he said, it had not occurred to him at that time, he wanted to make certain that this information was available to me and others that he had talked with.

BUDGET SUMMIT

Mr. DOLE. Mr. President, we have had another day of budget hearings, and I commend the distinguished chairman of that committee, TOM FOLEY, who has done an outstanding job. I do not know how many hours they have met altogether because I have not been there for every meeting.

At 9:15 tomorrow morning the President will meet with the Republican Members, House and Senate, before the meeting that Chairman FOLEY has called at 10 or 10:15.

And I think there is a feeling by all Members, both parties, House and Senate, and the President that we need to do something. Tomorrow will be I think the seventh, eighth, or ninth day—I cannot remember which—that we have had discussions. We had a Saturday session last week. There has been a lot of effort made by every member of that group, including the majority leader, the Speaker, the minority leader of the House and the minority leader in the Senate.

I believe there is a feeling that we do what we can do very quickly. I am not certain what that will be. The goal is, of course, $23 billion. If we can do more, it is commendable. There is also a great deal of interest in doing it for a couple of years. That would be commendable.

I am not at liberty to discuss the details. But I just want to indicate that despite reports to the contrary no one has given up. There is still a strong desire to reach some agreement and do it very quickly, hopefully tomorrow. Maybe that is that possible. But I would hope that tomorrow somebody can put a plan on the table, maybe it will just be there when we arrive so nobody will be tagged with it. We can look at it, and maybe express ourselves by a show of hands or some way to indicate again to the markets, to the American people, and to those around

the world that we are serious about this. We are. It has been bipartisan. It has been nonpartisan.

And sometimes it takes a while to do things but I just say for the RECORD as far as this Senator knows not a single Member on either side of the aisle in either House wants to give up on it. We are trying to get it done. I think that is important. I think that is an indication of progress, and hopefully by tomorrow evening or maybe early next week there can be some agreement put together.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. BYRD. Mr. President, I share the Republican leader's expressed viewpoint. We must not fail. I have been through a good many efforts over the years to reach agreements in complex situations. And in many instances I have seen situations in which about everyone else was ready to give up. I never lost faith, and I have faith in this instance. And I have good reason to believe that there is a potentially good, strong, meaningful agreement that is to be had. And I think we are getting closer. In the final analysis, however, it is going to require the President of the United States' involvement. We all know that. As the President said at the beginning some days ago, that when the package has been finalized we are all to come back. I believe that the finalization of that package will require the President's presence. I do not think it will be finalized here, after which we go back to him.

It seems to me that the Republican leader is right in saying that we need to get an agreement this week. Of course, that could have been said last week. We needed to get it last week. But that did not happen. Time is running out. The calendar is marching on. And we do need to reach an agreement this week.

Can we? I believe that we can. Will we? I do not know. But I hope—and I say this, believing that it would produce results—that the President will sit down with the leaders on both sides of the aisle, as we did in the beginning, and meet for a long time on Saturday, if not tomorrow evening, or sometime tomorrow.

There is a time when the iron is hot, and that is the time to strike. I am not sure that moment is here. But it is not that far away, and if we are ever going to strike that iron, then we should be ready. It is going to require a give and take on all sides.

I sense that there is that willingness to give and take here among the Republicans and Democrats. We have to be careful that we do not raise false hopes and false expectations. I think there has been too much talk about details of proposals that have been advanced by Democrats on the one hand or Republicans on the other. And sometimes the airing of those details may make it more difficult for the participants in the negotiations.

So if we could bite our tongues just a little bit with respect to details, and continue our work, we will succeed. The negotiators on the part of the House and the Senate and the White House have been working. They have worked long hours. It has been tedious. It has been difficult. But they will not be able to reach a final agreement until the President is ready to sit down and put his seal right on it along with the rest of us.

I have hope, and I believe that the Republican leader is right. The time is now. I would not want, however, the markets or the American people to believe that, if the work is not finished by this Saturday or by tomorrow, there is not going to be an agreement. I think that a good package is finally going to come out of this effort. But we do not have any time to lose.

Mr. President, I do not have anything further to say on this subject today.

I ask unanimous consent that the period for morning business be extended to 6:30 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. I yield the floor.

Mr. BOSCHWITZ. Mr. President, I compliment the majority leader and the minority leader, and I want to express myself in the same vein: that indeed the iron is hot; that indeed there is a willingness on both sides of the aisle.

As I think of all my colleagues I have spoken to in the last few days, without exception, every one has said that the iron is hot, that this is the time to strike.

In my 9 years here, only on one other occasion can I recall that the iron has been hot, in the sense that we would be able to gain control of Government spending. We must do it now. There is a willingness, certainly, on this side of the aisle.

I have talked to virtually every Republican Member, and I have talked to a very large number of Members on the other side of the aisle, and they show the same willingness to make the votes, to make the moves that are necessary to begin the process of bringing the budget into balance and not sending a heritage to our children of excessive debt.

I agree with the majority leader that it is important that we not fail. I agree with the majority leader that it is absolutely imperative that the President of the United States engage himself in negotiations. In my considered judgment, on this side of the aisle, he has not done so extensively enough up to this point.

We really are not talking about cutting the budget. We are just talking about slowing the increases. This year, the Federal budget is slated to grow by 8 percent—by $80 billion—and if it grows any less, if it grows only $70 billion, in the arcane way we use the language about the budget down here, that is cutting the budget. Even though the increase in spending this year is $70 billion, we would have cut the budget.

Every American who receives something from the Federal Government can receive more than a year before: those under Social Security, those who are retirees under other programs, the farmers, the military, every program. It is a question of how much.

Really, the thing we are trying to do is control the growth. If we can give more, but not too much more, we will be able to bring the budget into balance in fairly short order and fairly effectively.

Mr. President, I also urge on the negotiators that they have the support of the Senate. I have met also with Members of the House of Representatives, and I can say that they have the support of the House of Representatives.

I have met with the President and his negotiators and have been involved personally in a number of the negotiations, and there is great unanimity. The question is, who takes the first step, or do they all march in lockstep together? It has to be the latter.

There are too many programs that are too delicate politically, unfortunately, for one group or the other to get out ahead. It has to be done together, and so it should be done. If it is done in that manner, I think we will make the progress that is necessary to restore fiscal sensibility and responsibility to this Government, reassure markets, as we should have done years ago, and make this economy move forward at a rapid pace once again.

So I compliment the majority leader for his statement. I agree with him that false hope should not be raised. On the other hand, I am pleased to note, too, that agreement is closer today than it was yesterday; and yesterday closer than it was the day before; so that we are moving in the right direction. Indeed, all players, in my judgment, are going to be involved. All players are needed, and we will move forward.

Mr. BYRD. I thank the distinguished Senator for his statement.

MEASURES PLACED ON THE CALENDAR

Mr. BYRD. Mr. President, I ask unanimous consent that Senate Concurrent Resolution 87, H.R. 3295, H.R. 1212 when received from the House, and House Joint Resolution 395 be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

RELIEF OF KIL JOON YU CALLAHAN

Mr. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 423.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 423) entitled "An Act for the relief of Kil Joon Yu Callahan", do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. TEMPORARY RESIDENT STATUS FOR BENEFICIARY AND ADJUSTMENT OF STATUS.

(a) TEMPORARY RESIDENCE.—Notwithstanding section 212(a)(23) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(23)), Kil Joon Yu Callahan may be issued a visa and admitted to the United States for temporary residence if she—

(1) is found to be otherwise admissible under the provisions of that Act; and

(2) applies for a visa and for admission to the United States within two years after the date of the enactment of this Act.

(b) PREVIOUSLY KNOWN GROUND FOR EXCLUSION.—The exemption under subsection (a) shall apply only to grounds for exclusion of which the Department of State or the Department of Justice had knowledge before the date of the enactment of this Act.

(c) ADJUSTMENT TO PERMANENT RESIDENCE.—The Attorney General shall, at the end of the 2-year period after the date on which the beneficiary was granted such temporary status, adjust the status of the beneficiary provided lawful temporary resident status under subsection (a) to that of an alien lawfully admitted for permanent residence if—

(1) the Attorney General finds, that the beneficiary has exhibited conduct during such period which demonstrates good moral character (including drug rehabilitation and community ties):

(2) the beneficiary establishes that she has resided continuously in the United States since the date she was granted such temporary status; and

(3) the beneficiary establishes that she—

(A) is admissible to the United States as an immigrant; and

(B) she has not been convicted of any felony or three or more misdemeanors committed in the United States.

(d) TREATMENT OF BRIEF, CASUAL, AND INNOCENT ABSENCES.—During the period the beneficiary is in temporary status under subsection (a), the beneficiary shall not be considered to have failed to maintain continuous physical presence in the United States for purposes of such subsection by virtue of brief, casual, and innocent absences from the United States.

(e) AFFIDAVITS.—The Attorney General may require the beneficiary to submit affidavits for purposes of determinations made under subsection (c).

Mr. BYRD. Mr. President, I move that the Senate concur in the House amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion to concur.

The motion was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. ARMSTRONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, I ask the distinguished acting Republican leader if Calendar Order No. 300 has been cleared on his side.

Mr. ARMSTRONG. Mr. President, if the leader will yield, I am glad to report that Calendar Order No. 300 has been cleared on our side.

Mr. BYRD. I thank the Senator.

INDIAN FINANCING ACT AMENDMENTS

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 300, S. 1360.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1360) to amend the Indian Financing Act of 1974, and for other purposes.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Indian Affairs, with an amendment to strike out all after the enacting clause, and insert the following:

LIMITATIONS ON AMOUNT OF LOANS TO INDIVIDUAL INDIANS OR ECONOMIC ENTERPRISES

SECTION 1. Section 204 of the Indian Financing Act of 1974 (25 U.S.C. 1484) is amended by striking out "$350,000" and inserting in lieu thereof "$500,000".

ASSIGNMENT OF LOANS

SEC. 2. Section 205 of the Indian Financing Act of 1974 (25 U.S.C. 1485) is amended to read as follows:

SEC. 205. Any loan guaranteed under this title, including the security given for such loan, may be sold or assigned by the lender to any person.".

AGGREGATE LOANS LIMITATION

SEC. 3. Section 217 of the Indian Financing Act of 1974 (25 U.S.C. 1497) is amended by striking out "$200,000,000" in subsection (b) and inserting in lieu thereof "$500,000,000".

AUTHORIZATION OF APPROPRIATIONS

SEC. 4. (a) The last sentence of subsection (e) of section 217 of the Indian Financing Act of 1974 (25 U.S.C. 1497(e)) is amended to read as follows: "All collections and all moneys appropriated pursuant to the authority of this subsection shall remain available until expended.

(b) Section 217 of the Indian Financing Act of 1974 is amended by adding at the end thereof the following new subsection:

"(f) In the event that the amount in the fund is not sufficient to maintain an adequate level of reserves, as determined by the Secretary of the Interior, necessary to meet the responsibilities of the fund in connection with losses on loans guaranteed or insured under this title, the Secretary shall promptly notify the President of that fact, and within the 30-day period following such notification, the President shall submit to the Congress a proposed supplemental appropriation request in an amount necessary to assure an adequate level of reserves.".

(c) Any new credit authority (as defined in section 3 of the Congressional Budget and Impoundment Control Act of 1974) which is provided by amendments made by this Act shall be effective only to such extent and in such amounts as may be approved in advance in appropriation Acts.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The PRESIDING OFFICER. Are there amendments to the committee substitute? If not, the question is on agreeing to the committee amendment in the nature of a substitute.

The committee amendment was agreed to.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (S. 1360) was pased.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ARMSTRONG. I Move to lay that motion on the table.

The motion to lay on the table was agreed to.

UNANIMOUS-CONSENT AGREEMENT—TREATY NO. 100-5

Mr. BYRD. Mr. President, as in executive session, I ask unanimous consent that when the Senate proceeds to the consideration of the Fisheries Treaty with certain Pacific Island States, Treaty No. 100-5, the treaty be considered as having passed through its parliamentary stages up to and including the presentation of the resolution of ratification.

I further ask unanimous consent that when the resolution of ratification is pending, that there be 20 minutes for debate on the resolution, to be equally divided and controlled in the usual form.

I ask unanimous consent that immediately following disposition or yielding back of time, the question occur on the adoption of the resolution of ratification, without intervening motion or action; and, further, that there be a time limitation on any debatable motion or appeal or points of order of not to exceed 10 minutes to be equally divided in accordance with the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

91-059 O-89-29 (Pt. 22)

Mr. BYRD. Mr. President, I ask unanimous consent that on tomorrow at the hour of 10 a.m., the Senate go into executive session and proceed to the consideration of Treaty No. 100-5; that there be a 30-minute time limitation on the rollcall vote which is expected on the resolution of ratification.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I am not going to ask that the call for regular order be automatic. There will be a 30-minute time limitation on that rollcall vote. I would hope that Senators would not take any chances on going beyond the 30 minutes. That will be the first rollcall vote tomorrow.

Mr. President, I ask unanimous consent that upon the disposition of the treaty, the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR FRIDAY

Mr. BYRD. Mr. President, there are no bills tomorrow under rule XIV that would need further reading at this point?

The PRESIDING OFFICER. There are none.

Mr. BYRD. I thank the Chair.

Bills that have been triggered by rule XIV automatically go on the calendar on tomorrow, or do I need to adjourn the Senate once more?

The PRESIDING OFFICER. They are already on the calendar.

Mr. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until 9:20 a.m. tomorrow; that the time of the two leaders be waived; that there be a period for morning business following the prayer to extend until not beyond 9:30 a.m., that Senators may speak during that period for not to exceed 5 minutes each; provided further that at 9:30 a.m. the Senate go into executive session to consider treaty No. 100-5, and that the vote on the treaty resolution begin at 10 o'clock.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

PROGRAM

Mr. BYRD. Mr. President, I think that pretty well clears the air as far as the program for tomorrow morning is concerned. There will be a rollcall vote at 10 o'clock. That will be a 30-minute rollcall vote. And upon the disposition of the treaty, the Senate will return to legislative session. At that time, the Senate will resume consideration of the energy-water appropriation bill. There may be other matters to come before the Senate tomorrow that can be cleared for action. So rollcall votes may be anticipated.

It is not my intention to bring the Senate in on Monday. We have made good progress. We have done about as well as we could in view of the fact that there is a filibuster going on on the energy-water appropriation bill.

I have indicated to all Senators on both sides that the vote on the cloture motion would not occur until Tuesday. Having sent out that word, I will not retract it.

ORDER RESTORING LEADER TIME ON TOMORROW

Mr. BYRD. Mr. President, I ask unanimous consent that the leaders' time which earlier was waived be restored for tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. And that it be limited to 5 minutes for each leader.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO PROCEED TO EXECUTIVE SESSION AT 9:40 AM TOMORROW

Mr. BYRD. Mr. President, I note that the time for debate on the treaty is limited to 20 minutes and I believe that, under the order entered, the Senate was to go into executive session at 9:30 a.m., am I correct?

The PRESIDING OFFICER. That is correct.

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed tomorrow morning at 9:40 a.m. to go into executive session to proceed with the treaty No. 100-5.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I believe that leaves a little more time for morning business on tomorrow.

PROGRAM

Mr. BYRD. Mr. President, the rollcall vote then will begin at 10 o'clock. It will be a 30-minute rollcall vote. I urge that the Cloakrooms notify Senators to start early, not to wait too long, thus prolong the vote.

I want to call attention each day to the fact that rollcall votes are limited by order of the Senate to 15 minutes. That was the order entered at the beginning of the 100th Congress. I hope that, as we move along, Senators will try more and more to get to the floor and enable the votes to be taken within that time limit. By doing so, much of the Senate's time will be saved and much of the inconvenience that is caused other Senators who are caused to await the arrival of a single colleague will be lessened.

ADJOURNMENT UNTIL 9:20 A.M. TOMORROW

Mr. BYRD. Mr. President, does my friend have any other business or further statement to make, in which case I would be happy to yield?

Mr. ARMSTRONG. Mr. President, I thank the leader for his courtesy. I have nothing to offer.

Mr. BYRD. I thank my friend.

I move, in accordance with the order previously entered, the Senate stand in adjournment until the hour of 9:20 tomorrow morning.

The motion was agreed to, and at 6:32 p.m., the Senate adjourned until Friday, November 6, 1987, at 9:20 a.m.

NOMINATIONS

Executive nominations received by the Senate November 5, 1987:

DEPARTMENT OF DEFENSE

FRANK C. CARLUCCI, OF VIRGINIA, TO BE SECRETARY OF DEFENSE.

DEPARTMENT OF TRANSPORTATION

MARY ANN WEYFORTH DAWSON, OF THE DISTRICT OF COLUMBIA, TO BE DEPUTY SECRETARY OF TRANSPORTATION, VICE JAMES H. BURNLEY IV.

DEPARTMENT OF STATE

APRIL CATHERINE GLASPIE, OF CALIFORNIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF IRAQ.

THE JUDICIARY

KENNETH CONBOY, OF NEW YORK, TO BE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF NEW YORK, VICE ROBERT L. CARTER, RETIRED.

DEPARTMENT OF ENERGY

CHANDLER L. VAN ORMAN, OF MARYLAND, TO BE ADMINISTRATOR OF THE ECONOMIC REGULATORY ADMINISTRATION, VICE MARSHALL A. STAUNTON, RESIGNED.

CONFIRMATIONS

Executive nominations confirmed by the Senate November 5, 1987:

DEPARTMENT OF STATE

WILLIAM HENRY HOUSTON III, OF MISSISSIPPI, FOR THE RANK OF AMBASSADOR DURING HIS TENURE OF SERVICE AS U.S. NEGOTIATOR ON TEXTILE MATTERS.

DEANE ROESCH HINTON, OF ILLINOIS, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, WITH THE PERSONAL RANK OF CAREER AMBASSADOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF COSTA RICA.

RICHARD C. HOWLAND, OF MARYLAND, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF SURINAME.

THE JUDICIARY

LAURENCE J. WHALEN, OF OKLAHOMA, TO BE A JUDGE OF THE U.S. TAX COURT FOR A TERM EXPIRING 15 YEARS AFTER HE TAKES OFFICE.

ROBERT P. RUWE, OF VIRGINIA, TO BE A JUDGE OF THE U.S. TAX COURT FOR A TERM EXPIRING 15 YEARS AFTER HE TAKES OFFICE.

DEPARTMENT OF STATE

JAMES B. MORAN, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF SEYCHELLES.

DAVID H. SHINN, OF WASHINGTON, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICAN TO BURKINA FASO.

ROBERT MAXWELL PRINGLE, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE,

CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF MALI.

U.S. INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

M. ALAN WOODS, OF THE DISTRICT OF COLUMBIA, TO BE ADMINISTRATOR OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT.

UNITED NATIONS

DOUG BEREUTER, U.S. REPRESENTATIVE FROM THE STATE OF NEBRASKA, TO BE A REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE 42D SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS.

GEORGE W. CROCKETT, JR. U.S. REPRESENTATIVE FROM THE STATE OF MICHIGAN, TO BE A REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE 42D SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS.

HERBERT STUART OKUN, OF THE DISTRICT OF COLUMBIA, TO BE A REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE 42D SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS.

VERNON A. WALTERS, OF FLORIDA, TO BE A REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE 42D SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS.

PATRICIA MARY BYRNE, OF OHIO, TO BE AN ALTERNATE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE 42D SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS.

HUGH MONTGOMERY, OF VIRGINIA, TO BE AN ALTERNATE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE 42D SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS.

LESTER B. KORN, OF CALIFORNIA, TO BE AN ALTERNATE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE 42D SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS.

WILLIAM W. TREAT, OF NEW HAMPSHIRE, TO BE AN ALTERNATE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE 42D SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

DEPARTMENT OF JUSTICE

FRANK L. MCNAMARA, JR., OF MASSACHUSETTS, TO BE U.S. ATTORNEY FOR THE DISTRICT OF MASSACHUSETTS FOR THE TERM OF 4 YEARS.

THE JUDICIARY

DAVID G. LARIMER, OF NEW YORK, TO BE U.S. DISTRICT JUDGE FOR THE WESTERN DISTRICT OF NEW YORK.

ERNEST C. TORRES, OF RHODE ISLAND, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF RHODE ISLAND.

WILLIAM L. STANDISH, OF PENNSYLVANIA, TO BE U.S. DISTRICT JUDGE FOR THE WESTERN DISTRICT OF PENNSYLVANIA.

JAMES A. PARKER, OF NEW MEXICO, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF NEW MEXICO.

WILLIAM L. DWYER, OF WASHINGTON, TO BE U.S. DISTRICT JUDGE FOR THE WESTERN DISTRICT OF WASHINGTON.

DEPARTMENT OF JUSTICE

LAWRENCE J. SISKIND, OF CALIFORNIA, TO BE SPECIAL COUNSEL FOR IMMIGRATION-RELATED UNFAIR EMPLOYMENT PRACTICES FOR A TERM OF 4 YEARS.

DEPARTMENT OF COMMERCE

JEFFREY M. SAMUELS, OF VIRGINIA, TO BE AN ASSISTANT COMMISSIONER OF PATENTS AND TRADEMARKS.